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“Broken Families, Broken Courts”
written primarily by Karen de Sá

*an extended series exposing the failings
in the state’s Juvenile Court system*

PART I: How rushed justice fails our kids

BROKEN FAMILIES, BROKEN COURTS: A MERCURY NEWS INVESTIGATION

By Karen de Sá
Mercury News

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Special Investigation

- Broken families, broken courts: Latest installments and more in the series

Video

- Foster youth supported
- Beating the odds
- Losing a child
- J.D.'s story

Multimedia

- An interactive look inside California's juvenile dependency courts

It's a typical morning in the court system designed to protect California's children from abuse and neglect: Justice is being strangled by the clock.

In this Sacramento courtroom, attorneys spend two minutes on the case of a 3-year-old sent to the children's shelter after being found in a filthy home. The case of a teenager anxious to reconnect with lost siblings gets three minutes, yet his desperation cannot be felt; he's absent from his own hearing. Should a mother's right to her child be terminated? The court date opens and closes in 60 seconds.

Parent and child are legally severed for life.

By 11:30 a.m., 14 cases into a 21-case morning, Sacramento Superior Court Referee Daniel Horton is anxious. "C'mon folks, we can do this! Let's go, let's go, let's go!" he shouts. "OK, counsel, we can do this, let's go, let's get it done. It's like driving a car. Sit down and buckle up."

Scenes like this repeat daily in the state's juvenile dependency courts, a little-known arm of the justice system deciding the fate of families whose children have been removed by social workers.

The stakes are high. The dependency courts choose who deserves another chance to parent, and who does not. They decide whether children will grow up in their homes, be placed with relatives or raised in institutions. But despite the magnitude of the civil proceedings, courts from Santa Clara County to Riverside County seldom have the luxury of careful decision-making for the 75,000 children and their parents now in the system. With too little time to weigh the facts and consider best options, there's an ongoing risk that children will be wrongfully removed from their parents, or sent home into harm's way.

A yearlong Mercury News examination found widespread evidence of a system riddled with problems that open the door to poor judgment:

- Judges and lawyers representing children and parents juggle caseloads in some counties that at any given time are far higher than even the maximum recommended standards. On a recent weekday, a San Joaquin County judge ruled on 135 families in a single day. Dependency lawyers in San Bernardino County represent 464 children each - almost five times what many experts recommend.
- High caseloads mean judges regularly rule

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without time to probe basic information.

Throughout the proceedings, even at critical stages such as when children are first brought into foster care by social workers, hearings are often superficial. Although national guidelines call for hourlong initial hearings, throughout the state they commonly last five or fewer minutes.

- The field of dependency law is a legal outpost often dreaded by judges and undervalued by court authorities. Throughout the state, only one-third of the full-time judicial officers hearing dependency cases are judges; most often, commissioners or referees preside over the hearings. Sometimes, they do so on a part-time basis, while also being assigned to other, non-prestigious work. In Tulare County, for example, a commissioner handles dependency cases four days a week and traffic matters on the fifth.

- Substandard representation is commonplace for many parents in dependency court whose income makes them eligible for court-appointed lawyers. In some counties, including Santa Clara County, the public defender has been replaced by private firms that provide financial savings to the county, in many cases by hiring inexperienced attorneys and cutting costs for investigators and experts.

- Children whose interests are supposed to determine dependency case outcomes are regularly excluded from the court process. Judicial officers issue life-altering rulings without ever seeing the children whose futures are being decided. Lawyers fail to bring even teenage clients to court or interview them regularly.

The dysfunction permeating the dependency courts is unknown to most people. Cloaked in confidentiality designed to protect children's privacy, the system allows few outsiders in, holding hearings so secretive that the law provides for

criminal charges if clients or lawyers discuss them.

Yet system insiders, as well as numerous outside legal experts, openly describe the overloaded courts as a threat to the fundamental legal rights of parents and children. A high-level commission appointed by state Supreme Court Chief Justice Ronald George has spent the last two years examining the troubled courts and is expected to push for sweeping reforms in the coming months.

The rapid-fire consideration of dependency cases is all the more alarming because parents and children spend little to no time with their lawyers in advance of hearings. Social workers investigate the cases and file a report in court. All too often, advocates for children and parents accept or reject the findings, adding little to the courtroom discussion, and simply move on to the next case.

"When you calculate it out, it's two minutes per case - enough time for everyone to say submit or object, but not much more," said former supervising Sacramento Referee Carol Chrisman.

"If you were there as a child or parent, wouldn't you want the time to say something, and not have the judge thinking, 'I hope they don't want to say anything because I've got 20 more cases to get through?' How do you make a good decision without hearing from people?"

Monique Gaeta

A phone call, then panic,

and soon her son was gone. Monique Gaeta landed in dependency court in 2003, while she worked at Bonfante Gardens Family Theme Park and her then-boyfriend watched her three children at home in Morgan Hill. Her trouble began when her boyfriend, now her husband, called her cell phone to say the

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youngest child had been badly burned in the bathtub, and he was rushing him to the hospital.

Monique met them in the emergency room, after leaving work in a panic.

The boy arrived at Valley Medical Center in San Jose with second- and third-degree burns covering his legs like fire-red boots. Monique and Joseph Gaeta maintain that one of the other children fiddled with the tap, setting it from warm to hot. But a pediatrician's report triggered a call to Santa Clara County Child Protective Services. The doctor believed Joseph had intentionally burned the toddler. In dependency court, Monique faced a common allegation: She had failed to protect her child.

With her youngest still in the hospital, police escorted Monique's two older children to a Spanish-speaking foster home in Gilroy, although they spoke only English. Later, the two would move to the children's shelter, and then to a second foster home in Hollister.

Joseph was arrested, and after two years of court hearings, he pleaded guilty to felony criminal negligence, serving a seven-month jail sentence.

Meanwhile, Monique battled in dependency court to regain custody of her children. But her desperation was matched by the court's seeming indifference. "You're in, you're out, they don't even talk to you," she said. A typical discussion with court-appointed attorneys lasted mere minutes. "They always said, 'submit, submit, submit,' just go with what the court says."

John Nieman, supervising attorney for the firm that represents impoverished local parents - Santa Clara Juvenile Defenders - said he was "aghast" that Monique felt her lawyers did not maintain contact

with her. He said the attorneys persuaded her to work cooperatively, an approach that led to the case being resolved.

It took one year and six months for the court to return two of Monique's children. The injured boy never came home. Monique said goodbye to her son on a swing. "Mijo, Mommy loves you and she'll always love you, but you're going to a new mother," Monique remembers telling her son. "I told him that I was sorry but I would come for him one day, and he put his head down."

A child's death

Judge gets incomplete story,

leading to a tragic result Dependency court judges must promptly make the most critical of decisions. Err one way, and a child may be sent home to a dangerous situation. Err the other way, and children are separated from their families for a life just as chaotic and fearsome. Growing evidence shows disruption can be worse for many children than remaining in their homes with the appropriate support services.

Worse, sometimes judges do not get the information they need.

On Dec. 26, 2002, San Mateo County's presiding juvenile judge, Marta Diaz, got a brutal reminder of that. A baby she had authorized to visit his home had been declared brain-dead. His father was accused of violently shaking him on Christmas Day.

A distraught Diaz wanted to know how the system failed 8-month-old Angelo Marinda and how to prevent it from ever happening again. She ordered extraordinary open hearings in the case, where she discovered critical facts she was not told before she ruled Angelo should be permitted to visit home.

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Diaz never heard, for instance, that Angelo and his sister had been bruised and scratched during previous unsupervised visits with their parents. Nor did Diaz know that Angelo's attorney had not talked to his temporary caregivers, who knew of previous harm to the children.

In her final report, Diaz concluded that the system had broken down, and not just in this case. Too many lawyers fail to meet personally with their clients; rather, they simply "submit" to the findings of the social workers in court, without adding information or correcting the record.

"An agency is not going to stay great without strong advocates challenging them, because that leads to complacency," Diaz said. "The 'submit culture' should have bothered me more. It ultimately poses a threat to the health and safety of children."

The Marinda case is the exception; most dependency cases do not involve physical or sexual abuse. Eighty percent of cases seek to protect the children from neglect, according to state child welfare data. Parents leave children home alone, or with inappropriate caregivers. Bingeing on drugs or just plain impoverished, they fail to stock the refrigerator. Others lose their kids when police are called to break up violent domestic disputes.

Occasionally, cases land in dependency court that have no business there - an injured child turns out to have suffered because of "brittle bone disease," not an abusive parent; a sexual molestation allegation is planted by a vindictive spouse. The system is expected to weed out such cases, and for those able to afford private lawyers, it often does. But that may not also be true for the poor.

High caseloads for court-appointed attorneys mean "justice can't be done for cases that deserve it," said Frank Dougherty, a respected Sacramento private

attorney and licensed forensic psychologist. "The system as practiced is not designed to protect parents' and children's rights.

"It isn't a matter of turning their backs on the shaken baby, it's that they don't have time to see."

Experts' view

Typical lawyer's caseload

called 'humanly impossible' The signs of excessive caseloads are widespread. Court-appointed attorneys have little time to prepare their cases or even meet with their clients. Joan Turner, who represented 280 Sacramento County children, said she meets clients to interview them and understand their needs at initial hearings, and then encourages them to return to court so she can see them again in the brief intervals between her other appearances. Other than that, she said she was seldom able to visit children unless they get hospitalized for attempting suicide.

Dougherty said he wouldn't take on such a load, even if offered \$1 million a year. "No human being can take that caseload and do it. It's humanly impossible."

California Court of Appeals Justice Richard Huffman, a member of the commission studying problems in dependency court, called the caseload realities "obscene."

"Is there any other part of the court system that we would allow attorneys carrying 300 to 600 clients?" he asked. "The state has intervened in between a family, and I think the state has an obligation to assist them by providing adequate representation - not just somebody that runs out in the hallway and says: 'Is the Smith family out here someplace amongst this horde of people?' That is malpractice

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in any other area of the law, and it's a shame that we allow it here."

Huffman's characterization is not an exaggeration in most dependency courts in California. Attorneys handle more than 500 cases each in Monterey County, and 406 in Riverside County, at any given time, according to studies of the system. Court statistics list the statewide average at 273, well above the 100-case recommendation cited by the American Bar Association.

One boy's path

Shelters, juvenile hall

and finally back home Too often, the system serves the children as poorly as their parents.

J.D. Ruiz landed in San Mateo County foster care at age 10, a result of his mother's struggle with depression and homelessness. Over the next five years, J.D. bounced between shelters and foster homes, in between visits to juvenile hall.

After he finally was returned home, J.D. achieved a remarkable turnaround. Off probation, J.D. spent a year at home with his mother before enrolling at San Diego City College last month. Now 17, he plans to be a social worker or probation officer to guide youth on a course different than his own.

Reflecting on his early days in the system designed to protect him from harm, J.D. recalled the feeling he had in dependency court: hopelessness.

When he and his family would go to court, he recalled, "We'd wait for a long time, then we'd go in there and my attorney would say a couple things and that would be it," J.D. said. "It's actually been like that for a bunch of my court hearings, two to five minutes."

Often this haste causes hearings to become impersonal.

"You run the risk of getting burned out and begin just processing them instead of carefully thinking," said Sacramento Referee Susan Aguilar. Yet on rare days when the workload is light, she sees the difference an engaged judicial officer can make. When she can, Aguilar salvages placements for foster youth threatening to run away, and reaches out to parents feeling so overwhelmed they are giving up the fight for their children.

In the seconds between one case and the next, San Francisco Commissioner Catherine Lyons squeezes in praise for some of her court's consumers.

"I'd just like to tell both the parents how much admiration I have for both of you," she told one couple as a reporter watched. Lyons was pleased to see the mother had re-enrolled in drug treatment after being kicked out of a previous program because she had no citizenship papers. "You fought and fought and fought for yourselves and your children and for your sobriety. You are my heroes."

But too often, in the breakneck pace of the daily calendar, even niceties go by the wayside.

Overcrowding affects cases from the time judges first review the decision to remove the child from home. It is a critical juncture, as Marvin Ventrell, executive director of the National Association of Counsel for Children explained: Overloaded judges may be too inclined to order the child kept in foster care until further hearings take place. And that decision, once made, is hard to undo: "Once the train leaves the station, it's very hard to back up."

But a pattern was obvious as the Mercury News observed the proceedings in four Northern California counties: The hearings were perfunctory,

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except in those rare cases when private lawyers, rather than court-appointed lawyers, represented the parents.

Dozens of cases

In race against clock,

little time for discussion On an average March weekday in Santa Clara County, each of the three dependency courtrooms struggled to race through as many as 30 cases by noon. In Judge Patrick Tondreau's courtroom, there were four initial hearings in addition to the 22 other cases scheduled for the day.

The last of the four was pushed into the afternoon calendar, cutting into time normally reserved for dependency trials. In a seven-minute hearing, the court decided that a round burn on a 5-year-old boy's arm from a cigarette lighter was good cause to remove him and three other siblings, ages 1, 2 and 5, from their parents. The couple, listening to Spanish translation through headsets, said nothing as they sat beside their court-appointed lawyers. Although the social worker's report said the boy "gave some changing and inconsistent answers" when questioned about the burn, the children's general "unkempt" appearance and dirty fingernails raised other concerns.

Yet down the hall two days later, when a private attorney represented parents facing similar circumstances, the detention hearing lasted 16 minutes, more than twice as long. The allegation against both mothers was the same - that they "disciplined" their children with fire.

In the hearing with private attorneys, two immigrant software engineers were given time to address the court. Both parents had discussed the case at length with their attorneys before the hearing. They had

explained the circumstances - that Indian custom was to cook large amounts of food, but because the kitchen was so small, hot pans were placed on the floor. A rambunctious boy racing into the kitchen had collided with the cookware, they said.

"I know my wife would never hurt either child; this is purely an accident," the father told the court. "I'm a good Mom," his wife added. "We never abuse our kid; we never hit him or anything. I just give him a lot of time out. He's a very good kid, a wonderful kid."

Private attorney Robert Powell, whose office charged the parents a \$10,000 retainer fee, argued that the 5-year-old had spent only one night away from his parents before the incident, the night his sister was born. But he was now in the county children's shelter. Powell added that the boy was known for telling tall tales.

"Are we to believe that this mother cooks with lava?" he asked. "This child tripped over a pan on the floor in the kitchen."

With the chance to hear and consider arguments, Judge Katherine Lucero came up with a creative - albeit unusual - arrangement. The family was allowed to remain together at a cousin's home until the case could be further investigated and reheard four days later.

"Robert Powell is the opposite of what we ordinarily see," Lucero said after the hearing, adding that she likes lawyers who fight for their clients. When parents lack effective counsel, Lucero said, "it's up to judges to screen out the wrongfully accused."

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PART II: A timid advocate for parents' rights

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- An interactive look inside California's juvenile dependency courts

SETTING THE RECORD STRAIGHT (publ. 02/12/08)

An article about Juvenile Dependency Court referred imprecisely about the employment of Juvenile Defenders to represent impoverished Santa Clara County parents in dependency cases. The original contract was approved by the county board of supervisors; the contract is now approved by the Santa Clara County Superior Court, and paid out of state court funds.

Marquita Jackson first met her lawyer minutes before the court battle for her baby began. There

was little time to talk before a Santa Clara County Dependency Court commissioner would rule whether her child could come back home.

Days earlier, in 2004, the infant fell limp in his father's arms as Jackson watched. The boy was discovered to have a brain hemorrhage. Doctors and social workers suspected the baby's father had violently shaken the baby earlier that day. To win back her child, Jackson had to overcome the allegation that she failed to protect him.

Jackson felt she had no chance to tell her court-appointed lawyer that she did not know how the injury occurred, that her boyfriend did not believe he had even caused it. "There was no real discussion," she said.

Inside the courtroom, the social worker laid out the case, and it was over in moments. "Everything was like boom, boom, boom."

Jackson, then 20, left the Terraine Street courthouse in San Jose that day in a daze. The court permitted only a pair of two-hour visits a week with her baby. She had six months to prove she deserved him back.

The quality of Jackson's legal representation is no fluke; because most parents in dependency court are impoverished, they are given court-appointed lawyers, and many are poorly represented in their fights to keep their children following allegations of abuse or neglect. Juggling too many cases, attorneys for parents often do not meet their clients until just before critical hearings. In many counties, parents' attorneys routinely fail to fully prepare their cases.

The issues are especially pronounced in Santa Clara County - where, ironically, a collaborative culture has helped earn national acclaim for the local Dependency Court. Since 1996, indigent parents in

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the county have been represented by attorneys of Santa Clara Juvenile Defenders, a for-profit firm that has developed a model for handling a large volume of dependency cases based largely on cooperation, not litigation.

The firm, owned by former Newport Beach City Councilman Gary Proctor, is a pioneer in offering counties a cost-effective, though controversial, way to represent parents in dependency cases. Attorneys for Proctor's Santa Clara County firm say they lack time and resources to do investigation for their 2,300 clients. They say they have been discouraged from obtaining experts whose testimony, such as independent medical opinions, could sway cases. Attorneys are generally left to do their own faxing, filing and copying - taking precious time away from preparing cases for court.

"It felt like fighting with your hands behind your back," said Emanuella Chrysoglou, who quit in 2004.

Interviews with 10 current or former lawyers who have worked for Proctor, and an additional 28 who have direct knowledge of the representation clients of his firms received, echo Chrysoglou's concerns: Juvenile Defenders' attorneys are not given the time or resources for adequate representation.

Proctor said his own client surveys show his firm is meeting his client satisfaction goals. But the Mercury News found more than 20 former clients - despite confidentiality rules that made such review difficult - with similar complaints of poor contact with their attorneys and weak efforts in court.

Proctor, 63, defends his approach and warned a reporter in one interview not to "overestimate the importance of due process" for the parents his offices represent. He said the firm has been hampered in preparing for initial hearings by things

out of its control: difficulties in getting social-worker reports early and tracking down transient clients.

He said the vast majority of dependency court clients suffer from addictions and domestic violence they must resolve before the courts will return their children. The challenge for lawyers assisting them, he added, is magnified by state and federal time lines: Parents of children under 3 years old have just six months from the time a child is taken into foster care to prove they can safely parent. Parents of older children have one year.

As a result, Proctor said, the most effective thing lawyers can do for parents is to persuade them to admit to the problems and work on solving them. "You could litigate every piece of the (social worker's) report, but what is that going to accomplish?" Proctor asked. "My feeling is you've got a better chance getting them out of denial."

Last month, in a final interview, Proctor changed course and said he had modified his approach, based on questions raised by the Mercury News. (See story below.)

There are few statistics to compare the quality of representation from county to county in California. Proctor said his attorneys handle an average of 153 cases at any given time, a rate that is above American Bar Association recommended standards, though below the caseloads of attorneys in many counties.

In its focus on collaboration, his office has blended well with the approach of the Santa Clara County Juvenile Dependency Court. Under the leadership of Superior Court Judge Leonard Edwards, who has been hugely influential in the dependency field nationally, the county introduced mediation, team decision-making and a specialized drug court for

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addicted parents. The recently retired Edwards, who now consults worldwide, championed a vision of dependency court as non-confrontational. He contends that litigious environments generally are not what dependency courts' mostly poor, troubled families need.

At the same time, an approach built on cooperation rather than aggressive advocacy invites parents' lawyers to spend less on their clients' cases.

The county is paying Juvenile Defenders \$2.8 million this year. In return, the firm promises to employ at least 18 attorneys, four paralegals and two social workers to handle dependency cases in the county.

Proctor insists his lawyers have "the ability and resources to go to bat" in the few cases when the parents are blameless and the county wrongly initiated proceedings. He blamed criticism on disgruntled former employees and legal firms hungry for his contracts. But Proctor's critics say the firm does so little investigation that it cannot hope to identify early on those few but critical cases in which the county's Social Services Agency may have wrongly removed a child.

Private firm

Influential attorney wins

contract with county

Judge Edwards first turned to Proctor because he believed the local public defender's office, which had a Dependency Court role until 1996, ill-served parent clients. Proctor had contracts with Orange County courts and a successful private practice; he said he was paid as much as \$120,000 for a Dependency Court case.

His legal practice and political role gave him a place of influence; Proctor was described in a newspaper account as someone often consulted about potential candidates for judicial vacancies.

He had connections with other politicians and judges. One of them was a college classmate - Robert J. Polis, a superior court judge in Orange County - where Proctor represented parents in dependency court. The two bought a plane and, after Polis retired from the bench, bought a Newport Beach condominium together. Both Proctor and Polis said their friendship was unconnected to the courthouse, and that Polis was not assigned to dependency court.

In Santa Clara County, one of Proctor's first hires was Kevin Thurber, a former clerk to Judge Edwards. Another was Howard Siegel, who previously had represented parents for the public defender's office.

When Proctor first won the contract in 1996, officials were told that contract - for \$3.75 million over 33 months - would save the county \$740,000.

In 2002, Proctor also successfully underbid competitors and won the contract in neighboring Santa Cruz County.

But outside experts say the cost has been to the clients.

"The firm seems to have this philosophy that somehow it is its job to get the parents to cooperate with whatever Social Services tells them to do," said appellate attorney Jan Sherwood, who trains lawyers nationwide and handles cases from Marin County to San Diego. She said the Juvenile Defenders model "puts the lawyer in a conflict of interest with himself. If he represents the client in the way he should be represented, it costs more." It is an issue that came up in hearings last year before a state commission

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studying problems that plague the state dependency courts.

Like Sherwood, Thurber said he was troubled by the tension between profit and representation. After spending for basic expenses, he said of Proctor, "everything left over is his profit."

"There was a built-in pressure, 'Why do you need this expert?' " recalled Thurber.

Thurber and other former attorneys say training was also lacking. Thurber's job included training new lawyers, but he had only a week to prepare them, even though most had no courtroom experience. Chrysoglou, for example, recalled arriving with "no idea about juvenile dependency law." After two days of training and five shadowing another attorney, she began handling her own caseload.

(Proctor and others say training has since increased.)

Thurber quickly became disturbed by the firm's practices. He walked out within six months, the first of many to leave so abruptly. Though many come to the firm with idealistic hopes of serving people who desperately need advocates, few attorneys last long. Nineteen have come and gone since 2004.

Some, like Thurber, leave the firm critical of its level of advocacy. Others leave complaining of low pay and poor benefits; the salary of the full-time attorneys at Juvenile Defenders now starts at \$50,000 to \$60,000, and few earn above \$80,000 - less than half the pay of the county's public defenders.

Chrysoglou said she was inspired to help her clients. But she was forced to live at home with her parents - much of her salary, which she said was

less than \$50,000, going to repay her student loans - and before long she was frustrated with the way the office failed to aggressively represent the clients.

Numerous attorneys

Mother's fight to regain

son takes a bad turn

Marquita Jackson's treatment by the court convinced her no one really cared. For three years, she had a revolving set of attorneys from Juvenile Defenders.

Initially, the lawyers pushed successfully for the court to set a plan with goals for Jackson to meet that could lead to her child being returned. The lawyers thought things were going well, as Jackson, who had no criminal history and no drug problems, complied conscientiously with the battery of court-ordered programs.

She kept a stable home and remained steadily employed managing Silicon Valley apartment complexes. Both she and the baby's father diligently paid child support for their son's foster care, and said they'd split up if necessary for Jackson to regain custody of her son. After they took "Parenting Without Violence" classes, an instructor reported that "both parents' potential for abuse or neglect had decreased." Jackson's therapist said there was no reason to deny her the chance to parent.

And she made the best of visits. She brought her son yogurt and sang him the ABCs. The visitation center team described the couple as "very loving, fun, appropriate, responsible. They were always there."

Furthermore, in late 2005, a new social worker changed course for the department, recommending overnight visits and that the child eventually be

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returned home. That left the boy's attorney as the only party arguing that Jackson remained a threat because she denied the severity of the injury, and denied that her boyfriend caused it.

But things took a bad turn for Jackson in early 2006, when the case was reassigned to a new judge, who ended the agreed plan that was designed to lead to the child's unification with the family. The new judge also revisited the factual findings and added the conclusion that Jackson's boyfriend had caused the injuries, said John Nieman, Juvenile Defenders' supervising attorney.

Jackson's visitation was reduced to an hour a week.

Nieman said Jackson's case was a wrenching one, but he contended that the outcome in her case was not the result of anything done by Juvenile Defenders. He said the ruling of the new judge unexpectedly hurt the case.

While having rotating attorneys is not ideal, Nieman said, "In this case, every attorney that picked this case up already knew about it before they'd even looked in the file because it was a notorious case, and frankly the firm fought tooth and nail at every single stage.

Jackson's attorney at that hearing took the step - unusual, for Juvenile Defenders attorneys - of filing papers challenging the ruling; that motion was denied.

Meanwhile, Jackson became panicked as she was unable to reach her attorney, saying in a recent interview that she left repeated messages on a daily basis. She said that when she did get through, she learned that her case again had been reassigned. She said she was given an apology for her calls not being returned because of heavy caseloads.

'Ingenious' model

Law firm's approach

has supporters, critics

Proctor's firm has its admirers. He has been invited to assist efforts to reform dependency courts nationally as well as locally. He helped establish a law firm that represents parents in Sacramento. He has served as a consultant in San Diego and Honolulu.

Longtime Santa Clara County Superior Court Commissioner Kristine McCarthy said, "The quality of what parents are getting generally is very, very good."

Former Juvenile Defenders attorney Carol Barnett, now representing children in Alameda County, called Proctor's model - a group of attorneys working together on dependency cases - "ingenious." She credits Proctor with playing a central role in expanding dependency law careers. "Gary should be credited for exposing this area to many, many lawyers and making this a viable option - I found a niche in dependency, and it's thanks to Gary."

But current and former employees, appellate attorneys and even judges hearing the cases express concern that the parents are shortchanged.

The Santa Clara County District Attorney's Office, which represents children and often opposes the parents' positions, employs seven special investigators and four clinical social workers. Parents' attorneys have no such support.

"Gary Proctor doesn't have ongoing investigations and social workers like the DA has; that always strikes me as a little inherently unfair," said Judge

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Patrick Tondreau, who was assigned to dependency court until last year. "When I regularly get reports from the DAs, social workers and investigators, I don't get it from them. You wonder whether that makes their advocacy more difficult."

In neighboring California counties, investigators are fundamental. How to obtain and pay for experts and investigators is outlined on the second page of the policy manual for San Francisco parent attorneys. The state has a pilot program in several counties, including Santa Cruz County, to ensure that all publicly funded lawyers have access to experts and investigators.

In San Mateo County, the performance of 18 court-appointed lawyers is measured by how vigilant they are in securing outside help. "When they want investigators or individual experts, it's absolutely a no-brainer whether they're going to get it," said supervisor Gerry Hilliard. "If we get on people, it's not for overuse - on the contrary."

Strained resources

Investigations discouraged,

attorneys who left firm say

Former Juvenile Defenders attorneys said they were discouraged from seeking expert opinions, such as doctors to offer second medical opinions on a child's injuries.

Proctor on several occasions argued - before changing his position last month - that experts generally add nothing helpful.

In its first Santa Clara County contract, Juvenile Defenders agreed to pay for any needed experts. The current contract calls for the court to pay for any experts that Proctor's attorneys may need, but

current and former lawyers say they had not been trained in how to seek funding for experts, and some say they were advised it was a bad idea.

Superior Court Judge Katherine Lucero, who is currently responsible for more than 800 children's cases, said she has not had such a request since succeeding Edwards as supervising judge in 2006.

Proctor told the Mercury News in May 2007 that "any lawyer can spend \$500 without asking for it, on any case, for consultation of any type." But five current Juvenile Defenders attorneys said they had never heard of that policy until Proctor announced it after the newspaper interview.

Attorney Tina Milburn, who left in 2005, described getting money for experts as "jumping through hoops." Another attorney said she was told to rely on a letter from a domestic violence specialist, rather than bringing the specialist into court to testify. A third said she was told to use the expert that the public defender had already hired to defend the same client in a criminal case so that Juvenile Defenders did not have to pay for the service.

Parental rights lost

Legal system 'failed this

family,' critic contends

At her final hearing in October 2006, Jackson had another new attorney she had never met before. The lawyer for her son continued to urge the court that Jackson be cut off from contact with her child.

Jackson lost the case; her parental rights were terminated. Andre Chapman, a respected San Jose juvenile justice advocate who knew the family, and followed the case, said the revolving door of attorneys left her with representation that was

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"terrible." The problem, Chapman said, "was obvious in the number of attorneys they had and the people that kept shifting the case" from attorney to attorney.

Jackson likened losing her child to "getting my heart ripped out." So these days, for comfort, she's turned her home into a shrine. Portraits line every inch of wall space, 35 framed pictures in all - the baby in a Tigger outfit for his first Halloween, kissing Dad on the cheek, in his mother's arms dressed in matching red.

She still drops off gifts to the foster home, and receives an occasional snapshot. But she is barred from seeing him.

"The system failed this family as it fails many, many more families," Chapman said. And, much like the injury that brought the baby into the system, "it has left a legacy of hemorrhage and devastation in its path."

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Mercury News news research director Leigh Poitinger contributed to this report.

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Deputy public defender stepped in for foster mom

By Karen de Sá
Mercury News

Article Launched: 02/11/2008 01:32:10 AM PST
Foster mother Linda Hoffman was among the first Santa Clara Juvenile Defenders clients in 1997.

The San Jose woman had taken in hundreds of severely ill children when the 5-year-old she was planning to adopt took a downturn after a family camping trip. Since he was a baby, Hoffman had cared for the boy - born with a severe and often fatal renal disease - so ill he relied on a colostomy bag.

When his kidneys failed in the hospital, social workers accused Hoffman, now 58, of medical neglect and took the child she'd been raising into another foster home. The allegation was so serious the district attorney's office filed felony criminal charges. That meant Hoffman had two lawyers: Howard Siegel, of Juvenile Defenders, for the dependency case, and deputy public defender Mark Dames for the criminal case.

Siegel recently insisted he had effectively represented Hoffman, spending hours preparing her case, but Hoffman said Siegel spent little effort on her behalf.

"The case was presented as - OK, you're basically guilty because CPS (Child Protective Services) said you are, so let's just try to make it as less damaging as possible."

Dames also was appalled at Siegel's lack of effort and persuaded a judge to permit him to become Hoffman's lawyer in the dependency case. Dames

took all the steps he felt Siegel had failed to take: The public defender's office spent thousands of dollars on experts from six disciplines, including a sleep apnea expert and a nephrologist.

"What I found necessary to do as a competent attorney for my client was what wasn't done in dependency court," Dames said. "No witnesses were presented, no documents, and virtually no defense."

Siegel, now of El Dorado Hills, said his early work had helped Hoffman reunify with her children. His employer at the time, Gary Proctor, the owner of Juvenile Defenders, said he is "hard-pressed to see how those experts affected any change in the results."

It took years to resolve the criminal case; in the end, Hoffman pleaded no contest to a reduced misdemeanor count of child neglect and paid a \$100 fine. In 2005, her dependency case was dismissed. The boy returned to Hoffman from another foster care provider; she and the boy, nicknamed B.J., recently moved to Placer County, and she is currently trying to adopt him.

"They said, apparently you've been rehabilitated," Hoffman recalled. "Good luck and have a nice life."

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Overworked defenders: Sacramento attorneys struggle to keep up

By Karen de Sá
Mercury News

Article Launched: 02/11/2008 01:32:18 AM PST

Many of the problems of dependency courts throughout California were evident when a reporter visited Sacramento County last year.

Lawyers rushed in and out of court, struggling to meet with their parent clients in brief interviews before hearings.

Many were recent law school graduates, called "baby lawyers" by the referees hearing dependency cases.

The representation is provided under a contract awarded a private firm headed by attorney Dale Wilson. In 2006, the firm had suffered a series of departures from attorneys who left either because of the low pay or frustrations with the job.

One former supervisor, Stephen Nelson, said in an interview that he left because the firm was turning into an "attorney mill" providing substandard representation. A second former supervisor, John Passalacqua, said separately of his own departure: "I felt that conditions made it impossible to sustain the level of quality which our clients needed."

Wilson, in a recent interview, dismissed such criticisms as having come from "disgruntled employees" and said his firm had been able to hire new attorneys and assistants, increase morale and lower caseloads to 150 cases per lawyer since they

left. He said the firm provides a "high quality of representation."

Nelson testified last year to a commission studying dependency courts about the heavy Sacramento caseload. The attorneys' struggles also were apparent as a reporter watched last year.

One attorney, Miles Stern, rolled a full suitcase of files in and out of court each day.

The reporter watched as one of Stern's clients, a man in prison for robbery, lost all rights to contact his son. Just before the hearing, the father sought to have Stern fired for failing to answer his collect calls and letters: "With no responses from him, I'm in the dark."

The referee declined to remove the lawyer, ruling the father had not shown that Stern's lack of contact made any difference in the case.

As Stern walked out of court that day, he told a reporter that his heavy caseload leaves him with so many clients trying to reach him that he can only return a small fraction of the phone calls, on a "severe need-to-know basis." He said he did not blame his client for being angry: "This guy, I could have and should have serviced him better, kept him informed. But his case was doomed from the beginning. I elected to short him and I feel bad about it."

- Karen de Sá, Mercury News

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PART III: Big stakes, but little voice for kids

BROKEN FAMILIES, BROKEN COURTS: A MERCURY NEWS INVESTIGATION

By Karen de Sá
Mercury News

Article Launched: 02/12/2008 01:40:35 AM PST

Special Investigation

- Broken families, broken courts: Latest installments and more in the series

Video

- Foster youth supported
- Beating the odds
- Losing a child
- J.D.'s story

Multimedia

- An interactive look inside California's juvenile dependency courts

The day an Alameda County Superior Court judge became his stand-in parent, 14-year-old Zairon Frazier felt more like a criminal than a survivor of child abuse.

His mother had whacked him with a belt. But inside Juvenile Dependency Court, it seemed like a different sort of punishment. A bank of attorneys argued his fate at a rapid clip.

"Obviously, whatever they were saying wasn't for my benefit," Zairon said. "I knew they were talking about

me, but I didn't think anything I said or cared about mattered. If it was about me, why didn't they ask me?"

Youth advocates seeking to reform the long-overlooked dependency courts want answers to the same question. Too often, children removed from home following allegations of abuse and neglect are poorly served by lawyers paid to represent them.

Throughout California, attorneys do not include their clients in critical court proceedings foreshadowing their futures. The youths have little direct contact with their court-appointed lawyers before and after the hearings. And with the exception of dependency court in Los Angeles County, children rarely appear in court to express their views. When they do attend, like Zairon, they often leave discouraged.

The problem is compounded in Santa Clara County, one of two California counties where the district attorney's office represents children in dependency cases; other counties use public defenders or private attorneys. The local system leaves the children represented by lawyers who may be too adversarial toward the parents for their clients' own good. In interviews, judges and attorneys on all sides of local dependency cases said the tendency of the district attorney's office is to see too many parents as dangerous to their clients, a stance that works against the fundamental premise of dependency court - to reunify families whenever it is safe to do so.

The stakes for these kids are high. Judges and commissioners decide who will feed and clothe them - a relative, a stranger or institution staff. They decide where children will attend school, and whether they will ever see their families again after entering California's foster care system, the nation's largest, with 75,000 children.

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Traditionally, having children attend hearings was considered inappropriate; the system was presumed able to find the best outcomes without subjecting them to the possibility of additional trauma in the courtroom. But that view has come under increasing skepticism, as research suggests children's presence leads to improvements in their lives.

"If we deny youth that opportunity to participate, we really have set up a court system that perpetuates injustice," said lawyer Jennifer Rodriguez, a former foster youth. "Their lives are decided by strangers, in mere minutes."

For Rodriguez, that decision came at age 12, when a San Mateo County court ruled in her absence that she was a poor fit for a foster family. Over six years, Rodriguez shuffled between group homes, she said, "feeling so lonely I wanted to die."

Much about the regional courts has remained the same since 1994, when Rodriguez left the system. A reporter who won court approval to observe confidential proceedings in Santa Clara County for more than two weeks in 2007 observed children in only a fraction of hearings. On some days, the court raced through 20 cases or more without a single child present - even children clearly old enough to understand the process.

Hearings for children in long-term foster care often lasted no more than two minutes, even when reports revealed the children's lives were mired in terrible chaos. When young people did appear in court, their hearings were longer and more substantive; judges responded to children's concerns by seeking creative solutions.

On a typical spring day last year, the troublesome cases of absent youths came and went in a flash.

First was the case of a girl who had been denied

any contact with her siblings. Her high school grades had plunged to D's and F's.

Then there was the fifth-grader so doped up on anti-psychotic medications he slept through class. Court reports showed the 11-year-old, grieving his father's death, used "marijuana and ecstasy as well as alcohol to numb his pain."

Later came the case of a suicidal 14-year-old girl, who continued to "mutilate her toes." The social worker's report issued a stern warning: "The child has a plan to harm herself and means to execute her plan."

While social workers, relatives and foster parents plan the lives of children outside the court, the hearings are a unique forum for judges to independently review the care of young people in state custody. "Any time a child comes into court, like any time a parent sees their kid at the end of the day, you have to be spending the time to do a temperature check," said Miriam Krinsky, a state courts consultant. "The more times you ask, the more you gain, especially with children in distress."

Nationwide efforts to reform the troubled foster care system increasingly focus on turning up the volume of 513,000 children's voices. The American Bar Association and the National Association of Counsel for Children are among groups urging that children be brought into court, even at young ages. Widely agreed-upon professional conduct codes for lawyers also call for maintaining personal contact with children wherever they move, basing legal strategy squarely around their wishes, and fighting for parent services and longer visits when appropriate.

"A living, breathing child," said Marvin Ventrell, of the children's lawyers group, "causes you to do your job."

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Zairon Frazier

His life was being discussed,
so he wanted to be there

Zairon Frazier, the Alameda County teen, could never find a ride to court. But something told him he should be there when the subject was his life. So he traveled by bus and BART, navigating strange cities from San Pablo to Oakland.

Over five years beginning in 2002, counselors and social workers advised him not to bother. And although he persisted, all too often, the court experience let him down. Zairon moved through eight East Bay shelters and group homes, three middle schools and three high schools.

At each hearing, Zairon never knew who would appear on his behalf. "They'd say: 'Hi, I'm your attorney. Here are your case notes, look them over.' And that was about it."

Meanwhile, Zairon's life cried out for zealous advocacy. At one county-licensed home, he had to wake up well before dawn to have time to get to his school; at another there was only enough hot water for one of six boys to shower. Zairon said he struggled to evade the drug use around him and longed for privacy. He ran away and slept in the streets. "It was so bad," he said, "I was crying every day."

Child welfare experts have found that children kept out of the decision-making are more likely to misbehave or run away from foster care entirely. And their presence offers judges insight into their physical well-being and interaction with parents.

The difference when the hearings included children was evident during the Mercury News' observation

of dependency courtrooms.

In one case, a 17-year-old in San Francisco reappeared 16 months after running away. The teenager told Commissioner Catherine Lyons that social-worker reports that her mother read were undermining the girl's plan to return home.

Tossing back a tangle of magenta braids, the teen had a report of her own to deliver. "I got taken away from my mother and then someone sent a letter to my mother saying I didn't want to stay with my mother," she said, rising to her feet. "Why would I say something like that to my mother? That's just making things more difficult for me!"

The teen said she'd been on her own since entering foster care: "Group homes ain't no family."

And then the commissioner promised action. "I admire you for what you've done, what you've had to do," Lyons said. "If there's something in the report that's attributed to you that you didn't say or do, then we can take care of that."

And in a Santa Clara County courtroom, a boy told his attorney, Rob Lux, that he wanted to speak. The boy had been placed in foster care because his mother smoked marijuana after authorities already were concerned about her care.

"I just wanted to tell you, um . . ." Tears interrupted the testimony. "I really don't like what's going on and I just want to go back home," the boy said. "I didn't even get to spend Easter with my Mom, and that's my favorite holiday."

"I really, really appreciate your saying that to me," Judge Katherine Lucero responded, trimming the reunification target date from 180 days to 60. "And by law, I have to weigh that in my decision."

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'So fragile'

Should kids be in court?

Some judges, lawyers say no

Nevertheless, there is a widespread attitude that the system functions fine without children.

A 2006 survey of 1,800 judges, attorneys and social workers surveyed in 40 states revealed that just 8 percent believe kids should always be present at their hearings. Only 28 percent said children should be present most of the time, reports the non-profit agency Home at Last.

"The attitude of the judges and minors' counsel in Northern California is that these children are so fragile and shouldn't be exposed to this," said Carole Greeley, a longtime dependency appeals attorney. "They're actively discouraging it."

Santa Clara County children in foster care accompany their lawyers to court so infrequently, the local practice is to replace them with a Polaroid photograph. Deputy District Attorney Christine Hudson, who now carries a caseload of 428 clients, said the youths are told they can attend hearings but are not necessarily encouraged to come. Court can be boring for children, or traumatic, she said. She said some judges and commissioners even ask them to leave.

Many children say they have little or no contact with their attorneys outside court as well.

Estephania, 20, spent four years in Santa Clara County group homes and shelters. She fled several times, falling into prostitution at age 15 while supposedly in state care.

When asked whether she had representation

throughout her ordeal, Estephania responded: "A lawyer? All I had was my social worker. No lawyer. I would have been knowing about that!"

Denise Marchu, former president of the local foster parent association who has cared for 120 children, said only two have been visited by attorneys, and that was to sign adoption papers. And in two group interviews with local foster youths, 10 of 15 teenagers said they had no idea who their lawyer was. One boy said he's seen his attorney three times in nine years. He doesn't know her name, he said. "But I know she's cute."

Emancipation hearing

'Would the judge care what

was going to happen to me?'

As Zairon Frazier's 18th birthday approached, a significant court date loomed - the hearing curiously known as "the emancipation," or formal release from court supervision.

But there was a conflict. His last court date landed the same day as finals at Skyline High School. It could not be changed, a caller from the county informed Zairon.

That lost opportunity bothered him, compounding all the other losses of his life. "I wanted to hear what they were going to say about me at that last hearing. What would happen if I didn't have a job or I wasn't in school?" Zairon said. "I wanted to know, would the judge care what was going to happen to me after I got out of foster care?"

Postscript: On Oct. 26, 2007, two years after he left foster care, Zairon Frazier, now a student at Chabot College, was back in dependency court. After a reporter questioned the Alameda County Public

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Defender's Office about why Zairon's emancipation hearing was not rescheduled, officials decided belatedly to do exactly that.

Zairon, now 20, beamed through praise from Judge Rhonda Burgess, a photo session and a lunch in his honor. "It truly didn't have any legal implication," said his former public defender, Kathy Siegel, who was so bothered after learning of the missed hearing that she orchestrated the mock event. "But it had a lot of meaning to him, it really did. It was closure."

Contact By Karen de Sá at kdesa@mercurynews.com or (408) 920-5781.

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District attorney office's 'different hat' troubles some

By Karen de Sá
Mercury News

Article Launched: 02/12/2008 01:42:44 AM PST
Though Santa Clara County is known nationally for its model dependency court, the county provides children here with an unusual, and controversial, group of lawyers.

For more than 20 years, the district attorney's office has represented local youths in dependency court, a system used nowhere else except Fresno.

That arrangement represents a large financial investment by the county. The district attorney's office offers significant resources, including databases, investigators and office social workers. Santa Clara County prosecutors are California's highest-paid children's lawyers, at more than \$180,000 a year each.

But what the county adopted as a measure to protect children has troubled child welfare experts. The practice was condemned two decades ago by a panel of professionals advising the state's Judicial Council. "A clear majority of us on that committee felt it was inappropriate for district attorneys to represent children," said Marin County Public Defender Joe Spaeth.

"We felt that their interests were not necessarily in the best interest of the children. Because the role of the prosecutor is first and foremost public safety and prosecuting crime, their allegiances were divided."

The approach poses a potential conflict. In many cases, the district attorney's office is prosecuting a parent in one courtroom for conduct - typically drug offenses and in some cases child abuse - that caused the child to land in dependency proceedings in another. Until last month, the same supervising attorney oversaw both teams of attorneys - those prosecuting child-abuse suspects, and those representing their children.

That alarms outside experts. "Prosecutors, by definition, are prosecutorial," said Erik Pitchal, a Suffolk University law professor, who said the approach clashes with a system not designed to be punitive.

Top Santa Clara County prosecutors insist there is no conflict in the office's dual roles.

"There isn't a fundamental conflict, otherwise we wouldn't be in those cases," said District Attorney Dolores Carr. Lawyers in the office are able to "put on a different hat" in dependency court, she said, adding the office strikes "the appropriate balance between advocating for a safe place for a child to grow up," while recognizing "the best place for a child is with the parent."

Aaron West, supervising deputy district attorney, said her office's resources make it uniquely suited to represent children. Prosecutors representing children consult schools and community service providers. Investigators hired by the office interview children using age-appropriate language skills and relay the information to lawyers who appear for them.

And "if there is a committee supporting parents' services, we're on that committee and advocating for services," West said.

Prosecutors' role

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'They should be out of

the dependency process'

No one tracks how often prosecutors argue against returning children to their parents, even when social workers favor reunification. West defended the district attorney's approach, identifying seven examples from 2000 to 2008 when the office sought reunification despite social workers' recommendations. West said: "The whole point is to get these children back home. But ultimately, we have to protect the child."

Current and former judges and lawyers for parents and social workers contend that far too often, the district attorney's office argues positions against reunification.

"They beat up on parents," said longtime Juvenile Court presiding Judge Leonard Edwards, who retired in 2006. Prosecutors "think that kids will do better in out-of-home care. They should be out of the dependency process completely."

Judge Patrick Tondreau praised the district attorneys for their passion and dedication, but said they "resist return of any children and tend to advocate against parents."

In April, when a reporter observed the normally closed proceedings, Assistant District Attorney Laura Aizpuru-Sutton urged Judge Tondreau to prevent a mother from weekly visits with her 8-year-old girl.

Aizpuru-Sutton told the judge she had decided to oppose the visits after she learned the girl suffered nightmares following her mother's visits.

No one in court that day raised the fact that the file included a social worker's report, reviewed by a

reporter, that offered a different cause of her nightmares. The report said the nightmares occurred after the girl told police she was molested by her foster father.

At the hearing, Tondreau declined Aizpuru-Sutton's request, saying he would not prevent the weekly visits without hearing from the social worker.

Aizpuru-Sutton referred questions to West, who said last week that Aizpuru-Sutton had based her statement on other information the office had gathered.

Supervising judge

Former prosecutor worked

on child-abuse cases

Katherine Lucero, who succeeded Edwards as supervising judge of Santa Clara County Juvenile Dependency Court, knows well the district attorney's office's aggressive stance toward parents.

In 1997, before becoming a judge, Lucero worked as a deputy district attorney, assigned to prosecute child-abuse suspects, including parents. She replaced Christine Hudson, deputy district attorney, who had moved from prosecuting abuse suspects to the unit that represents children. Lucero said she was immediately struck by the office's aggressive posture in building cases against parents and other family members.

"I remember thinking, this is wrong," Lucero said. She recalled the arrest of a grandmother who smacked a child with a fly swatter; the woman's grandchildren were taken to a shelter. Lucero said she immediately ordered the grandmother released from jail and the children returned. "I didn't find them appropriate," Lucero said of cases she

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inherited.

Hudson, whose work is praised by judges including Edwards, said that when she first began representing children, her prior experience prosecuting child-abuse suspects left her mistrustful: "I came here with an attitude of: These parents have done horrible things."

But she said she has since gained perspective, recognizing the importance of reuniting families whenever possible. What changed her, she said, was seeing the impact of foster care on her young clients. "They have this emptiness in them," Hudson said. "You just see it in their eyes."

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Judge's personal, legal experience

By Karen de Sá
Mercury News

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Prompted by a yearlong investigation by the Mercury News, Santa Clara County supervising Judge Katherine Lucero last month took an important step to address the problems of the dependency court now serving 2,500 children.

Lucero revamped the court schedule to make sure the parties involved have plenty of time to talk before their cases are heard for the first time.

Furthermore, she said, she has worked to ensure that the hearings are not too rushed.

The changes are only the latest moves for Lucero, the first Latina judge appointed to the Santa Clara County Superior Court, who took over the county's juvenile dependency court in 2006.

Most judges dread a dependency assignment. But at 46, the daughter of farmworkers says she can't think of a better job.

Lucero now schedules initial hearings, after children are removed from home, for 30-minute afternoon sessions, giving parents, children, social workers and their lawyers time to meet in the mornings. Throughout California, these hearings typically last mere minutes, following the briefest of meetings between clients and their court-appointed attorneys.

She also launched programs to assist addicted mothers of young children as well as teenage

runaways.

Lucero was raised in a family ravaged by alcoholism and domestic abuse, surviving on rice three times a day. Yet her parents overcame their problems: Her father became a 12-step devotee, her mother a women's studies major who joined the Peace Corps at age 60.

"Most of the types of abuse I see, I have had a personal experience with," Lucero said. "If they had taken me from that family, it would have devastated me."

Fellow judges and lawyers say her history provides her with critical insight.

"In dependency, you need to have that sensitivity and understanding and compassion for people," said Deputy County Counsel Tamara Lopez. "Katherine has the capacity to do that."

In Dependency Drug Court - a specialized program for a small group of addicted parents - Lucero's approach is surprisingly personal. She comforted a pregnant 14-year-old, and chastised a counselor for discriminating against a gay teen.

But she can be tough. Lucero warned one parent that lying about drugs would get her locked up; she told a sobbing mother to write a goodbye letter to her son.

Later that day, wearing her trademark Frida Kahlo necklace, Lucero praised a client for beating her addiction: "Everyone here acknowledges what you were able to do. So thank you, thank you for this journey."

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A call for swift change for juvenile dependency courts

By Karen de Sá
Mercury News

Article Launched: 02/14/2008 01:32:57 AM PST

Special Investigation

- Broken families, broken courts: Latest installments and more in the series

Video

- Foster youth supported
- Beating the odds
- Losing a child
- J.D.'s story

Multimedia

- An interactive look inside California's juvenile dependency courts

Saying a Mercury News investigation confirmed the poor treatment that foster children and their families suffer in California's courts, the chairman of a commission examining the state's dependency system is promising comprehensive reforms - and soon.

Supreme Court Justice Carlos Moreno, head of the Blue Ribbon Commission on Children in Foster Care, said his 42-member panel has heard similar stories to those detailed by the newspaper earlier this week: overloaded judges and lawyers spending too little time on cases that have lifelong impacts for the most vulnerable California families, those whose children have been removed following allegations of abuse

or neglect.

In March, Moreno said, the commission will wrap up two years of work with recommendations for reforms. The proposals will focus on reducing caseloads for judges and attorneys, and providing more meaningful court hearings that can devise good outcomes for parents and children, with their full participation.

"I'm hoping that articles such as these enlighten the public to direct more efforts to treating these families in a more equitable and humane way," Moreno said in an interview.

The subjects of the stories "resonate with the commissioners," he said. "They are emblematic of a system that needs improvement - and needs significant improvement soon."

Deep flaws exposed

In the three-day series "Broken Families, Broken Courts," the Mercury News documented deep flaws in a court system overseeing the lives of 75,000 children in foster care, where parents often meet their court-appointed attorneys just minutes before critical hearings, and children are discouraged from attending proceedings that, in their absence, take just minutes to seal their fates.

Moreno, who learned of the system's hazards firsthand while caring for a foster child, said the legal rights of children and parents are threatened in the current system, due to "the haste I have learned about in which these cases are decided," he said.

In Santa Clara County's dependency court - despite its reputation as a national model - court-appointed lawyers for parents are discouraged from fighting for their clients, and children are represented by prosecutors often considered hostile toward the

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dependency court's mission of reuniting families whenever possible.

In the wake of the series, which highlighted problems statewide, dozens of desperate parents have contacted the newspaper, saying they had little voice in the dependency system.

Dependency hearings are normally held under strict confidentiality. The Mercury News was able to observe the proceedings in four counties under special arrangements with Northern California judges, and found the same problems of perfunctory hearings and crushing caseloads in every court.

"The lawyers who are in this field of practice have the best of intentions," Moreno said. "But I think given the high caseloads and lack of training and basically being thrust into a courtroom, they can't have positive results."

Moreno said the commission's recommendations also will address the over-representation of Latinos and African-Americans in the dependency system, and the importance of children taking a more active role in their court hearings. Outside of Los Angeles County, children do not routinely participate in court hearings and often do not even know they have lawyers.

"The practices vary tremendously from county to county as to whether children show up in court," said Larry Bolton, chief counsel to the state's Department of Social Services, and a member of the blue ribbon commission. "Some counties strongly advocate for children being in the court and some strongly advocate against it."

Bolton said although the argument against kids in court is that they will hear hurtful issues discussed, "in reality most of the youth I've spoken to are already aware of these things, they've experienced

them, so the trauma of hearing about it is not always that great. Many foster youth find it very empowering to be able to speak to the court."

The foster care commission's report will be made available for public comment before final recommendations go to the state's Judicial Council later this year. A pilot program run by the state Administrative Office of the Courts has added momentum. In 10 California counties including Santa Cruz County, the program known as DRAFT has lowered court-appointed lawyer caseloads and improved pay and training. Participating lawyers have access to experts and investigators to aid their defense of clients, even in counties where those resources had not previously been available.

In its first three-year phase, the DRAFT program has shown early results, reunifying families separated by social work intervention more quickly and with more lasting results.

Challenges ahead

Yet hope for expanding the program, as with many of the anticipated reform proposals, faces political and economic challenges that may supersede reformers' best intentions. Systemic change will cost millions of dollars at a time when the state Legislature is grappling with a more than \$14 billion budget deficit.

Eighteen-year-old Anthony Pico, the only member of the blue ribbon commission now in foster care, has sat through meetings, speeches, conferences, round tables and panel discussions studying fixes for the dependency system. As someone who has experienced a shuffle of attorneys and social workers managing his life, he wants to make sure that the next round of recommendations aren't "just words on a piece of paper."

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"It's about time people say what they're going to do and follow through with it," Pico said. "We're put in these positions to make a change, not to talk about it."

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Controversial lawyer in dependency court resigns following Mercury News series

By Karen de Sá
Mercury News

Article Launched: 02/14/2008 04:07:18 PM PST

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- An interactive look inside California's juvenile dependency courts

The owner of a for-profit firm representing low-income clients in Santa Clara County's dependency court announced his resignation this week, two days after a **Mercury News investigation** revealed the firm's low level of advocacy for parents facing the permanent loss of their children.

In an emotional meeting Wednesday, Gary Proctor told employees in his San Jose office that he would not bid for future contracts with the Superior Court that has employed his firm for more than 10 years.

The stunning news from the former Newport Beach City Councilman - five months before his contract with the local Superior Court formally ends - follows a Mercury News article published Monday. The newspaper detailed the firm's low level of advocacy for parents in the juvenile dependency courts who face losing their children due to social worker's allegations of abuse and neglect. The firm's clients are the county's poorest residents. Without aggressive representation, they can lose all rights to their children within six months.

When children are taken from their parents they are placed in foster care - a necessary option for many children. But statewide reformers of the foster care system, as well as legal advocates for children, say parents need better representation to make sure that kids are separated from their families only when absolutely necessary to ensure their safety. The dependency courts and the lawyers it appoints all parties serve as a critical check and balance on the social service agencies filing abuse and neglect claims.

Critics of Santa Clara Juvenile Defenders, including attorneys who have worked for the firm, say they have been discouraged from providing aggressive defense for parents when that advocacy costs money, such as the use of experts or investigators. Turnover in the office is high. Appellate lawyers throughout the state say the Santa Clara County parent lawyers do not fight hard enough to protect their client's rights to appeal unfavorable trial court rulings.

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Attorney won't seek new deal with court

LAW FIRM OWNER RESIGNING AFTER WORK FOR CLIENTS WAS CRITICIZED

By Karen de Sá
Mercury News

Article Launched: 02/15/2008 01:34:20 AM PST

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The owner of the for-profit firm representing low-income clients in Santa Clara County's dependency court announced his resignation to his staff this week, two days after a Mercury News investigation revealed his firm's timid advocacy for parents facing the loss of their children.

In an emotional meeting Wednesday, Gary Proctor told employees in his San Jose office that he would not bid for future contracts with the Superior Court, according to four participants in the meeting. Through his firm, Santa Clara Juvenile Defenders,

Proctor has held the contract in the county for a decade.

Presiding Judge Catherine Gallagher said she had heard talk of Proctor's resignation, but as of late Thursday had received no formal notice. She said the court is "looking into whether or not we're going to renew his contract," which expires in June, as part of an ongoing review.

The surprising news follows a Mercury News series published earlier this week. In its examination of the dependency court system, the newspaper detailed complaints from parents and attorneys about the firm, which pioneered a for-profit model for services traditionally supplied by government attorneys. Confronted with the newspaper's reporting before publication, Proctor acknowledged many of the concerns and pledged changes.

The firm's clients, among the county's poorest residents, are facing the loss of their children because of allegations of abuse or neglect. Without aggressive representation, they can lose all rights to their children within six months.

Critics of Juvenile Defenders, including attorneys who have worked for the firm, say the lawyers have been discouraged from defending parents aggressively when that advocacy costs money, such as using experts or investigators. Pay for attorneys is low and turnover in the office is high. And appellate lawyers throughout the state say the Santa Clara County parent lawyers do not fight to protect their client's rights to appeal unfavorable trial court rulings.

What's more, the Mercury News has learned, some services promised in Proctor's contracts with the local Superior Court appear not to have been provided.

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Messages left for Proctor and several of his firm's supervisors were not returned Thursday.

Attorneys with the firm would not speak for attribution, fearing for their jobs. But they confirmed that at a mandatory staff meeting Wednesday, Proctor announced he would not be involved in future contract bids. They said he used the word "resigned," but it was not immediately clear how that affects his current status, since his firm has five months left on its contract.

Some employees shed tears as Proctor, 63, discussed his pending departure with the staff, which they described as his effort to "take the bullet" after the critical newspaper report. Other supervisors in the firm told the staff that they intend to submit their own bid for the next contract and will request more money from the court for experts, investigators and attorney salaries.

Santa Clara County supervisors first employed Proctor's firm - which also represents parents in Santa Cruz and Orange counties - for a 33-month period beginning in 1996. The local Superior Court has since handled the contracts.

But the court has required little accountability of its contractor. The firm now handles the cases of more than 2,300 local parents, as well as some child clients, for an annual \$2.8 million.

Santa Clara Juvenile Defenders' current three-year contract states that "a minimum staffing level to be provided by SCJD at all times" includes 18 attorneys, four paralegals and two social workers. In the firm's 2002 bid for services, Juvenile Defenders made a similar pledge to employ two social workers.

However, attorneys and judges say there has never been social-worker support for Proctor's clients, and Proctor acknowledged as much in an interview.

Social workers can provide critical support to lawyers by assisting clients in attending court-ordered programs. Most parents must attend parenting, domestic violence, and substance abuse classes, in addition to counseling sessions and drug testing. But tracking down the services is a steep challenge for many parents who lack reliable transportation and struggle to hold onto low-wage jobs.

Proctor told the Mercury News he has "never been able to hire a social worker in here full time." In recent weeks he has brought in social-worker interns overseen by a local domestic-violence agency.

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Firm will quit, leaving courts scrambling

QUALITY OF SERVICES WAS QUESTIONED

By Karen de Sá
Mercury News

Article Launched: 02/23/2008 01:33:19 AM PST

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- An interactive look inside California's juvenile dependency courts

Santa Clara County court officials are scrambling to find a new firm to provide representation to impoverished parents in Juvenile Dependency Court cases, as the longtime provider has given formal notice that he is ending the representation in June.

Court officials began a rushed process to seek a new firm to represent parents on Feb. 6, days before the publication this month of the series "Broken Families, Broken Courts," inviting new bidders by Friday. They declined Friday to discuss what responses they received.

"The court is in the middle of exploring its options," Superior Court general counsel Jim Rumble said. "While it is in that process it would not be appropriate for me to tell you what's under consideration."

The court search for a new provider began after the Mercury News asked detailed questions about the representation provided by the private firm, Santa Clara Juvenile Defenders. On Feb. 11, the newspaper published an extensive article detailing how parents who faced losing their children following allegations of child abuse or neglect were represented by attorneys with inadequate access to investigators, experts and other resources.

Rumble confirmed Friday that Gary Proctor, owner of Juvenile Defenders, which has represented impoverished Santa Clara County parents in dependency court cases since 1996, informed the court this week that he would no longer be providing the service after June. Proctor had told his staff that he was stepping aside immediately after publication of the series.

Decisions made in Santa Clara County Juvenile Dependency Court - which now serves 2,500 children - determine whether children separated from their parents due to safety concerns will be raised in foster care or returned home to their families.

The newspaper series reported that former employees, appellate lawyers and clients described Juvenile Defenders as unwilling or unable to provide aggressive advocacy for parents fighting abuse allegations. The firm also suffers from high turnover and an ongoing reluctance to challenge trial court rulings in the higher courts.

The two-week deadline represents a hastier and more informal bidding process than the court has

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used in previous contract negotiations. One potential bidder said Friday that the short time frame had prohibited him from entering a bid.

Attorney Kevin Thurber, a former state consultant who conducts dependency law trainings, said he had notified court officials in early February that he would seek to bid on the contract to represent parents, but was told his interest was premature. But he said he learned too late, in a passing reference, that bids were being sought with a Friday deadline.

"I was shocked about that," Thurber said. "I could do a half-baked attempt, but I'm not going to do that."

John Nieman, a supervising attorney with Santa Clara Juvenile Defenders, did not return repeated messages, but he has told other attorneys he would head up a bid for services using the same attorneys now employed by Proctor.

Stephen Avilla, deputy directing attorney of the local Legal Aid Society, said his organization submitted a proposal that focused on providing quality representation. That proposal called for hiring "specialized litigating attorneys" to take the more difficult cases to trial; a social worker to help addicted parents through recovery in order to reunify with their children; and an ombudsman who would respond to clients' complaints.

According to the Legal Aid proposal, attorneys would be paid upward of \$80,000; lawyers working for Juvenile Defenders begin in the \$50,000 to \$60,000 range, a factor former attorneys cited as a significant cause of repeated turnover.

Last year, Legal Aid landed the parents contract in the Contra Costa County dependency courts, beating out that county's public defender.

But the organization has faced some obstacles with local officials. Pete Kutras, county executive for Santa Clara County, wants to end the Legal Aid Society's existing contract to represent some low-income criminal defendants.

County officials say it would be more efficient and cost-effective to have other agencies take over the criminal defense work. Legal Aid disputes that analysis, but the board of supervisors is expected to endorse the county executive's plan at its next meeting Tuesday.

Contact Karen de Sá at kdesa@mercurynews.com or (408) 920-5781.

Mercury News Staff Writer Brandon Bailey contributed to this report.

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Bill would strengthen kids' voices in foster care court

BILL WOULD REQUIRE THEY'RE TOLD ABOUT RIGHT TO ATTEND HEARINGS

By Karen de Sá
Mercury News

Article Launched: 03/07/2008 01:30:34 AM PST

Related document

- **Download:**
- Assembly Bill 3051 (PDF)

Special report

- Broken Families, Broken Courts

An influential California lawmaker has introduced legislation to bring more children into the court hearings that decide their fates after allegations of abuse and neglect - a bill proposed in response to systemic failures revealed by the Mercury News last month.

"This bill sends a strong message that kids need to be a more integral part of the system," said Dave Jones, a Sacramento Democrat who chairs the Assembly Judiciary Committee. Jones said the bill is designed to address one of the key findings of the series "Broken Families, Broken Courts" - that throughout California, hearings in the courts that oversee the foster care system are often held without the child present.

The bill is the latest development following publication of the series, which showed that California dependency courts are so congested that clients' legal rights are in continual jeopardy. In

recent weeks, the owner of the firm that long has represented indigent parents in Santa Clara County abruptly resigned and Superior Court officials have made significant improvements to the handling of all new dependency court cases.

Jones' bill, AB 3051, would require all California judicial officers to postpone hearings if children 10 and older have not been properly notified and offered the chance to attend.

Current law gives children the legal right to attend but does not require officials to make a strong effort to get the children there. Outside of Los Angeles County, children are not routinely present at their hearings.

The assemblyman said he became convinced that children's participation is vital after reading the newspaper series and interviewing youths.

"The San Jose Mercury News captured the capacity of these kids to have a very strong viewpoint on what's working and not working in the system," Jones said, as well as "how thoughtful and articulate children can be about their interests."

Younger kids, too?

Legislators expect the bill to meet little opposition, but it has raised concern among lawyers who want some of its language altered before final votes are cast.

Leslie Heimov, executive director of the non-profit Children's Law Center of Los Angeles, said setting the minimum age at 10 could prohibit even younger children from participating in court. In Los Angeles, where 96 full-time attorneys represent 26,000 children, local rules encourage all those age 4 and older to attend hearings. Heimov said if it weren't for diaper issues, babies and toddlers also would be

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present.

"For older kids, there's a benefit to the child, but for younger kids there's a benefit to the court," Heimov said. "They bring the case alive. They're ruling on a person, not a piece of paper."

Jones said alterations of his bill are expected, and that he intends the age reference to be "a floor, not a ceiling."

Yet for the bill to have an impact, a significant culture change would be required in many California courts.

Case in point

Ana, 19, illustrates the system's all-too-common failure. Ana entered foster care at age 12, after police picked her up from school and drove her to the San Jose children's shelter. Abuse among family members left her in and out of relatives' homes and other temporary placements, but for four years she never knew she had a right to be in Santa Clara County Superior Court to influence the decisions being made about her life.

She said that until she was 16, she was not even aware she could attend court hearings. But once she appeared, there were instant benefits.

"The judge saw my point of view, what I wanted and my opinions of what should happen in my life," Ana said. "I actually spoke for myself and so it felt better."

Not all California's judges, commissioners and referees hearing dependency cases get that message. Many believe children can be disruptive, or shouldn't miss school to attend court. Others fear they will be bored or traumatized by things they hear.

But Presiding Judge Michael Nash of the Los Angeles Juvenile Court praised Jones' bill. "Children are the most important persons in our process," he said. "And they should be seen and heard."

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Lawyer who represented parents in Santa Clara County's dependency court commits suicide

By Karen de Sá
Mercury News

Article Launched: 03/11/2008 01:32:57 AM PDT

Guest book

- Share your condolences for Gary Proctor

Gary Proctor, the embattled head of the legal firm representing parents in Santa Clara County Juvenile Dependency Court, shot and killed himself in his San Jose home, officials said Monday.

Police dispatched to the Almaden Valley house at 2:55 p.m. on Sunday pronounced Proctor, 63, dead at the scene. The cause of death was determined to be a self-inflicted gunshot wound.

"Police believe this to be a suicide," said San Jose Police officer Jermaine Thomas.

His death stunned officials in the Santa Clara County court system, where Proctor's firm has represented parents and some children for more than a decade.

The incident occurred amid growing scrutiny of the publicly funded representation that Proctor's firm was providing to parents who faced losing their children after allegations of abuse or neglect. The Mercury News series "Broken Families, Broken Courts" reported that attorneys for Proctor's firm,

Santa Clara Juvenile Defenders, often lacked such fundamental tools as experts and investigators, and regularly met the parents they represented on the day of their hearings.

Proctor, who created similar for-profit firms to represent parents in Orange and Santa Cruz counties, told his Santa Clara County staff he was resigning the week the series appeared in mid-February.

Santa Clara County Superior Court officials have begun an audit of the multimillion-dollar Juvenile Defender contract. The court also initiated a hasty process in recent weeks to attract a competing firm to provide parent representation starting July 1.

Proctor's former colleagues in the Terraine Street juvenile dependency court in downtown San Jose sought consolation Monday from grief counselors sent to the courthouse by a local non-profit agency.

"We are all deeply saddened by this news," Presiding Juvenile Court Judge Patrick Tondreau said in an e-mailed statement. "Gary Proctor was loved and respected by many in our legal community, and our hearts and prayers go out to Gary, his family and loved ones at this very difficult time."

Proctor's reputation, while controversial in some circles, was celebrated in others. Lawyers who have trained in his offices have gone on to jobs in the state Administrative Office of the Courts, and California county counsel and public defender offices. Proctor served as a consultant in Sacramento, San Diego and Honolulu and led court improvement sessions at national judges' conventions.

Barbara Bond, a former dependency court client who reunified with her children and later worked in Proctor's office under a program he created called

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"Mentor Moms," cried when he announced his resignation last month.

Attorneys in his office last evening issued a statement saying, "Gary Proctor's passion and commitment to serving families in the juvenile dependency system was unwavering. Those of us who have worked with him have benefited from his guidance and wisdom. His presence will be missed as a mentor, colleague and friend."

An active member of the State Bar of California since 1971, Proctor began his legal career as a prosecutor with the National Labor Relations Board after graduating from the University of San Francisco School of Law. He then spent three years in the Orange County Public Defender's Office before entering private practice, representing both criminal and dependency court clients.

From 2000 to 2003, Proctor served on the city council in Newport Beach, where he owns a second home. He developed extensive friendships with public officials, and once had been credited with significant influence over the process of winning appointments for Orange County judges.

"It's a great loss," said Judge Katherine Lucero, who supervises Santa Clara County's dependency Court. "I don't know what's in store for us in the future as far as what are the lessons to be learned from this."

Proctor, described by friends as an enthusiast of the outdoors, enjoyed flying, sailing and skiing. He is survived by his wife, Sandra, who he married in Orange County in 1977, and two adult children.

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State panel calls for change to fix dependency court system

PANEL SEEKS PROTECTIONS FOR PARENTS, FOSTER KIDS

By Karen de Sá
Mercury News

Article Launched: 03/15/2008 01:30:13 AM PDT

A state commission concluded its two-year study of California's juvenile dependency courts Friday by calling for sweeping reforms to make sure children and parents caught in the system are better informed and better served.

The Blue Ribbon Commission on Children in Foster Care recommended critical changes to ensure that lawyers meet with their clients well in advance of their hearings, that judges preside over all court cases and that children are present and active when their life in foster care is being decided.

The recommendations address several of the critical problems highlighted by the series "Broken Families, Broken Courts," a Mercury News investigation published last month that exposed widespread problems in the courts that oversee 75,000 California children in foster care.

The report of the commission, appointed by state Supreme Court Chief Justice Ronald George, echoed the newspaper series with this dire warning: "California's dependency courts are over-stressed and under-resourced, burdened by crowded dockets and inadequate information."

California's dependency courts decide which

children should be returned to their families and which are removed permanently following allegations of child abuse and neglect.

The report was posted online Friday, launching a 60-day public comment period. In August, the state's Judicial Council - the policy-making body of the California courts - is expected to consider adopting reforms.

Confirming the Mercury News findings, the commission reported that children and parents afforded court-appointed lawyers "do not meet their attorneys until moments before their hearings." The typical time for hearings is as short as 10 minutes, a far cry from the 30- to 60-minute hearings recommended.

"If we truly are intent on doing better by children and families, we can't ignore the courts and the legal process," said Myriam Krinsky, a member of the Blue Ribbon Commission and a state courts consultant. "The commission's recommendations acknowledge that we have to do business differently, and that children and families will continue to pay the price if we don't start to turn the corner."

Recommendations

The commission is the first of its kind in California, focusing on the court's role in the child welfare system. Commissioners included judges, attorneys, legislators, child welfare directors, foster youth, child advocates, tribal leaders, academics and philanthropists.

The recommendations in the commission's 20-page report aim at reducing the number of children in foster care, a system believed to poorly serve the children it is designed to protect. Key recommendations include:

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- Removing children from their homes should be a last resort, and children temporarily separated from parents should be returned home by the courts as quickly as possible. If the state does take custody, children in long-term foster care should receive financial and other support through age 21, rather than ending foster care at age 18 as is the current practice.

- Local trial courts should prioritize the often-shunned dependency courts. All dependency cases should be heard by judges, not the court-appointed referees and commissioners who now hear most cases.

- All court clients - including children - should have an opportunity to participate in their hearings; with the exception of cases in Los Angeles County, children are routinely absent. Clients should get help with rides to court, and hearings should be set at specific times, so that school and work conflicts for parents can be accommodated.

Attorneys' role

To improve the quality of representation in dependency court, the commission calls for attorneys to meet with clients "before the initial hearing and in advance of all subsequent hearings," a basic communication now lacking in most courtrooms.

The commission also wants higher pay and lowered caseloads for lawyers who now carry as many as 600 cases in some regions. This is hundreds more cases than competent attorneys can reasonably manage, experts say.

What's more, new attorneys should be encouraged to enter a field too often shunned, the report stated: Juvenile dependency law should be a mandatory area of study for the California bar exam and student

loans should be forgiven for those entering the field.

Some dependency court insiders viewed the long-awaited report with some disappointment, fearing that the language is too vague to have an impact. Others fear the state's dire fiscal crisis will be an obstacle to the legislation and resources needed to make lasting change.

Jonathan Pearson a 25-year-old former foster youth who serves on the commission, said he hopes the recommendations will be strengthened and improved following public comment.

Pearson, removed from his drug-addicted mother at age 3, lived in nine different court-ordered placements. Going to court often meant a four-hour wait, before a minutes-long hearing with a lawyer he had just met.

For the commission to have the impact Pearson and others desire, "I think that we have more work to do," he said. "We need to make sure that not only is the report politically viable, but there's a clear way to implement every recommendation."

Commissioner Darrell Steinberg - who is incoming president pro tem of the state Senate - said the state's fiscal crisis makes it impossible to implement reforms that cost money. But the Sacramento Democrat is hopeful there will be future opportunities to spend money on desperately needed change.

"If we don't help children and families during these most difficult times," Steinberg said, "they will bear the consequences and so will we."

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The commission report may be seen at: www.co

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Santa Clara County foster-care court struggles to adjust to kids' larger role

By Karen de Sá
Mercury News

Article Launched: 04/05/2008 01:31:14 AM PDT

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- An interactive look inside California's juvenile dependency courts

After years of being largely left out of proceedings that decide their fates, more children are now joining the flurry of parents, attorneys and social workers churning each weekday through the Santa Clara County Juvenile Dependency Court.

A February memo to social workers titled "Children

Have a Right to Attend Court Hearings" - coupled with new efforts by children's lawyers - jogged the local system that decides whether to remove children from their homes following allegations of child abuse and neglect.

The change began within days of a Mercury News series highlighting systemic flaws in California's dependency courts. But the results - while pleasing many participants - are roiling San Jose's ill-equipped garment-factory-turned-dependency-courthouse.

The influx of child clients has fed an already tense and chaotic scene outside the three bustling dependency courtrooms handling 13,000 hearings a year for more than 2,500 children.

On a recent weekday at the Terraine Street facility, a toddler threw his sippy cup across a crowded bank of plastic chairs in a court waiting room. A shell-shocked teenager stared dully around her, and a small girl leaned against her caregiver, practicing her reading on a SpongeBob SquarePants coloring book.

"I am really happy to see kids in court. It's important that they are there because it's their lives we are deciding," said Supervising Judge Katherine Lucero. "I just want to be responsive and make a way for this trend to be continued. We're concerned that the court experience for children is not as easily facilitated as it might be if we had better accommodations."

Memo's result

Although there are no hard numbers available, dependency judges and lawyers confirmed they've seen an increased number of children at hearings in the last two months, following a Feb. 6 Department of Family and Children's Services memo. Officials say

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children were offered the opportunity to go to court even before the memo, but acknowledge there were "inconsistencies" in practice among social workers.

"Under no circumstances should a social worker tell a child they cannot or should not come to court," states the memo. "... if a child asks to come to court, then the child's request must be honored. One of the major complaints from former dependent children who emancipated from foster care is that they never knew they could come to court and talk to the judge."

Among lawyers for children, there also have been changes as a result of the memo and the newspaper series, said Nick Muyo, spokesman for the Santa Clara County District Attorney's Office. In an unusual arrangement, Santa Clara County uses prosecutors to represent children in dependency court; those lawyers receive information from investigators who interview child clients.

"One thing we are doing now is we're making it a point when the investigators meet with the kids to ask them whether they want to go to court," Muyo said. "And if they do want to go to court and for whatever reason cannot make it, we make it a point to continue the case."

Deputy County Counsel Michael Clark, who helps direct the legal office representing social workers, said judges too have played a role, by requesting that teenagers with "high-risk behaviors" come to court to discuss their cases.

Kids' crucial role

Children's active participation in dependency court is seen by experts as vital to good decision-making. It allows them to weigh in on their futures and gives an overloaded court system the opportunity to connect a face with a file.

State lawmakers are now considering the issue as well, with a new bill, AB 3051, sailing through a key Assembly committee this week on a vote of 10-0. The bill, by Dave Jones, D-Sacramento, the chairman of the Assembly's Judiciary Committee, requires willing children to be active participants in court, and emboldens judges to push lawyers for explanations when child clients do not appear.

But courts statewide, as in San Jose, may struggle to make the adjustment.

The dependency court boasts a small children's waiting room, with toddlers' toys and Disney movies. But the space does not serve older children braving the often hours-long wait for court. The congested main waiting room places foster children alongside parents and relatives - even relatives the court may be seeking to separate from the children.

"I'm a big proponent of kids coming to court and being able to participate, but we don't have a place for them to wait," said Jennifer Kelleher, directing attorney for the non-profit Legal Advocates for Children and Youth. "We need to make sure they are physically and emotionally safe when they're going to attend a hearing. We need to make sure that court is a positive experience."

Dan Weidman, a longtime social worker and union officer, said the tedious wait for court - in a building with little to occupy them - turns children off to the whole experience.

"The kid gets frustrated and then the next time you're going to want to bring them to court they're going to put up real resistance," Weidman said

The Santa Clara County court is now searching for a new building, and looking for ways to set dependency hearings at specific times to cut down on the wait.

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"We need to conform ourselves to this trend and accommodate children in court and not in any way give a message that they have created a problem for us to solve," Lucero said. "We need to make it as child-friendly as possible."

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Legal help for poor defendants called inadequate

By Karen de Sá
Mercury News

Article Launched: 04/18/2008 01:33:54 AM PDT

A statewide commission reported Thursday that many California counties have cut their spending for impoverished criminal defendants by providing them lawyers whose representation fails to meet constitutional standards.

Counties are increasingly hiring legal firms that offer cut-rate representation by failing to spend money on investigators or experts that are needed for adequate defense, said the report issued by the California Commission on the Fair Administration of Justice, created to examine ways to guard against wrongful convictions.

"This is like a cancer within the system of providing indigent defense, and it's spreading," said Gerald Uelmen, executive director of the so-called Fair Commission, calling the spread of low-bid, flat-fee private firms "a race to the bottom."

The commission's report focuses on criminal cases, where the U.S. Supreme Court has long held that impoverished defendants are entitled under the Constitution to effective representation of attorneys in the preparation as well as trial phase of the case.

The report concluded that institutional public defender's offices - such as the offices that handle most cases involving Santa Clara County defendants unable to hire lawyers - generally provide competent representation for their clients, and

vigorously advocate for adequate funding for investigators and experts.

Flat fee

But lawyers who are paid a flat fee for representation, the report said, may be tempted to cut corners on pretrial preparation and avoid going to trial to save time and money.

As a solution, commissioners recommend that the state Legislature establish a body to oversee the way counties provide representation to criminal defendants, and also recommend a law to ensure that funding for experts and investigators is separate from the fee paid to the lawyers in publicly funded cases.

While the commission's report focuses on criminal representation, the problems identified in the report mirror those exposed in the February series of articles on the confidential juvenile dependency system, where Santa Clara County's court has long turned to the lowest bidder for legal services. The Santa Clara Juvenile Defenders firm has represented parents accused of child abuse or neglect since 1996, when the firm won its first contract by offering dependency representation at a far cheaper price than the county had been paying public defenders.

The Mercury News series documented that the firm had no investigator and invested little, if anything, for expert review or testimony in cases. The series quoted lawyers who had worked for the firm, as well as a wide swath of critics, who said the profit motive interfered with an adequate defense for parents, many of whom faced the permanent loss of their children.

Juvenile Defenders and other for-profit firms handle the representation of dependency cases in a number

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of counties. A committee of Santa Clara County Superior Court judges is now considering whether to retain Juvenile Defenders after July 1.

County's change

The local Legal Aid Society, a non-profit county contractor, has long administered a panel of attorneys paid to handle criminal cases in those instances when the public defender's offices have a conflict of interest, such as cases of multiple defendants. But the county counsel is currently taking steps to take over such conflict cases itself.

"By this move, our intention is to provide a much better constitutional defense to criminal defendants in this county who are indigent," said County Counsel Ann Ravel. "We will be abolishing all of those contracts for flat-fee work and instead we are going to be paying people essentially for the work they do. We are going to encourage that investigations be done early in the case to give the lawyer an understanding about what the ramifications are of the charges."

The 2006 Mercury News series "Tainted Trials, Stolen Justice" concluded that the trials of many criminal defendants have been marred by instances of prosecutorial, defense or judicial error, and that there is an increased chance of a wrongful conviction when those problems occur together.

The Fair Administration of Justice Commission report cited research by California Western School of Law Professor Larry Benner, who found that inadequate investigation is a recurring problem in cases in which convictions were overturned because of poor representation.

The commission cited in particular law firm Richard A. Ciummo & Associates, which the report described as using the "Wal-Mart business model" for

providing representation to impoverished defendants. The firm, highlighted in a Mercury News article last year, began in Madera County and currently has contracts with seven other counties by offering to cut costs below competitors' bids.

"It's hard for county officials to resist that kind of come-on," commission director Uelmen said. "You need to have some bottom line."

But former attorneys of the firm have complained in court documents of poor training and inadequate preparation.

A local newspaper reported in Amador County that criminal attorneys with Ciummo's firm failed to show up in court, leaving defendants in jail longer than necessary. In a board of supervisors' debate about the private firm's poor performance, Amador County Supervisor Louis Boitano was quoted as saying: "It didn't take long to figure out who was on the gravy train and milking the system."

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Broken families, broken courts: Law firm resisted scrutiny

STATE EXAMINING SPENDING RECORDS

By Deborah Lohse
Mercury News

Article Launched: 06/22/2008 01:31:48 AM PDT

Related documents (PDFs)

- Email correspondence between Santa Clara Juvenile Defenders, court officials and Gary Proctor
- Invoices from Santa Clara Juvenile Defenders submitted each month for payment

Special Investigation

- Broken families, broken courts: The full series

In the weeks before he committed suicide, the owner of a law firm that represented impoverished Santa Clara County parents in dependency court was facing increasing pressure from court officials seeking financial information about his publicly funded legal defense firm, newly released documents show.

The requests that began in late 2007 were unusual: For more than a decade, the county superior courts had paid Gary Proctor's firm more than \$20 million to represent parents facing accusations of abuse or neglect without demanding much documentation in return. The series of contracts over the years gave the firm a fixed sum, and the firm generally was not

asked for financial information beyond a monthly invoice detailing which lawyers and staffers worked in that period.

Proctor resisted the more detailed court requests for information, which began in December, for weeks; he and his lawyer cited a variety of problems, including the fact that the firm's money was "completely commingled" with funds of a sister firm owned by Proctor to serve Orange County.

In March, Proctor killed himself for reasons that remain unclear.

Since then, the firm has turned over some records, and court officials have turned to the state courts to oversee an audit of the most recent three-year contract.

A Mercury News review of the records provided so far raises questions about the spending of hundreds of thousands of dollars in public money over the years, and whether the county had done enough to oversee whether the firm was complying with its contract requirements. For instance, the firm appears to have noted for nine months that two attorneys who worked in another county were working for the San Jose firm and that two receptionists were actually paralegals. The county also was apparently unaware until it started asking questions that Proctor had diverted at least \$300,000 to a "reserve fund" the county said was unnecessary.

State audit

Now, the state court system is supervising a first-of-its-kind audit to try to answer just how Santa Clara Juvenile Defenders spent its money the past three years and whether it complied with its contract terms. The scrutiny was undertaken amid growing questions about how well children and parents were

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being represented in dependency court, highlighted in February in the Mercury News series "Broken Families, Broken Courts."

The local Superior Court next month is to turn over supervision of the publicly funded dependency court lawyers to state officials. They expect that change will improve oversight of the program as well as improve representation for both parents and children in the court that determines the fates of children after accusations of abuse or neglect in their homes.

Santa Clara County Superior Court executive Kiri Torre said in an e-mail that Santa Clara County court officials had not considered it necessary to conduct a review of Santa Clara Juvenile Defenders' spending practices previously, both because the contract gave the firm broad spending discretion and because local judges have been satisfied with the firm's performance.

But, she said, in the past several months the court asked for more detailed information because of discrepancies in data detailing the number of clients the law firm represented, and questions about whether Proctor's contract should be renewed. Lawyers from Santa Clara Juvenile Defenders, as well as any competitors, have until June 30 to submit bids to provide representation after the expiration of the current contract, which has been extended to Oct. 31.

The belated court scrutiny coincided with questions of officials as the newspaper prepared to publish "Broken Families, Broken Courts," which documented widespread problems in dependency court and documented problems in the representation provided by Proctor's firm.

The firm had been considered by many judges to be a model, placing its emphasis on helping parents to

cure their addictions and improve their parenting rather than aggressively contesting allegations of abuse and neglect. That model was largely applauded by officials concerned that what parents who poorly raised their children most needed was help to become good guardians. But even officials within the law firm conceded that the firm had not spent enough attention to cases of parents who may have been wrongly accused of neglect or abuse. Attorneys who worked in the firm told of being discouraged from spending money on experts and investigators to develop aggressive defenses.

Questionable practices

As auditors conduct their review, materials newly released by the court show that the firm appears to have engaged in irregular or questionable practices in other ways as well:

- Despite telling court officials that he didn't have enough money to pay his lawyers well, Proctor diverted at least \$300,000 in the past three years to a "reserve" fund he said was designed to pay firm expenses in case they ever lost the contract. However, county court officials noted that Proctor's contract stipulated that the court, not Proctor, would be responsible for paying the firm's expenses during such a transition. Officials in mid-December told Proctor to stop "setting aside" such funds and instead "redirect" the funds to pay, training or other firm needs.
- The monthly invoices provided to Superior Court officials appear to contain incorrect information. Proctor's office stated each month that a minimum of six social workers/paralegals worked on behalf of clients, but that appears to be false.

On 29 of the 35 monthly invoices provided to the court from 2005 to 2008, there were only four or five names listed as "social workers/paralegals," not

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six. And some people familiar with the firm say two of the names that appeared as paralegals in all 35 invoices were receptionists who did not perform any paralegal or social work duties.

Also, nine months of invoices appear to include the names of two lawyers who were working for Proctor's firm in Santa Cruz County, not Santa Clara County. Specifically, Evguenia Vatchkova and Jennifer Cretcher-McCoy were listed as working at certain divisions of the San Jose office on a "half time" basis from July 2005 to March 2006, but a person familiar with the firm says they were actually in Santa Cruz. Cretcher-McCoy confirmed that "I worked in Santa Cruz at that time." Vatchkova did not respond to two Mercury News voice mails.

Firm manager John Nieman - who is planning to bid for a new contract with several partners - did not answer questions on behalf of the firm. Nieman instead said that his authority had been limited to supervising the staff, that he has "never seen" the firm's budget and saw the contract only a month ago.

- Santa Clara Juvenile Defenders was required under the contract to make its financial records available for inspection by county court officials at any time at its Santa Clara County offices. But when county officials starting asking for those records, Proctor's lawyer responded that was difficult because the records were commingled with those of Proctor's Orange County operation.

Torre said county officials did not consider the commingling a violation of the contract.

- The contract required the firm to provide statistics upon request, but the caseload statistics that the firm provided for years were confusing.

At one point in 2004 Proctor supplied data

indicating the firm had more than 4,000 clients each year in 2001, 2002 and 2003 - representing both new clients and old, lingering cases. Three years later, Proctor said the caseload was about 1,000 a year, and blamed poor technology for the earlier "inflated" numbers. "For whatever the reason for our neglect in not more actively pursuing a reliable number we have now done so and that count is attached," he wrote to court officials in April 2007.

Superior Court officials had their own data on how many cases were being referred each year to the firm, but said they were unable to pinpoint how many clients the lawyers in the firm were handling at any given time - a frustration mirrored in dependency courts statewide. "The statistics the court received were not sufficient to conduct a comprehensive assessment of the workload per attorney," Torre wrote in an e-mail to the Mercury News recently. "Ongoing discussions regarding this issue occurred throughout each contract period without resolution," she added.

Court demands

Starting in December, court officials began asking Proctor for increasingly detailed information about the firm's spending as well as caseload. Proctor was told Jan. 4 that he would have to address several issues to win renewal of the contract: Improve the firm's high employee turnover, hire social workers, increase the use of experts on behalf of clients, and improve its caseload reporting. Proctor was also admonished to stop setting aside \$100,000 a year as reserve money.

The demands continued, despite Proctor's assurances that he would address the concerns. In the succeeding weeks, Proctor and his lawyer offered various reasons why the records could not be provided - finance staff on vacation, attorneys at a conference, concern over competitive secrets, and,

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ultimately, the fact that the money was commingled.

In February, Proctor resigned, and a criminal attorney he hired later tried without success to argue that the data no longer needed to be turned over.

Court officials disagreed and asked for help from the state's Administrative Office of the Courts, which hired an auditor to conduct an in-depth examination of the firm's compliance with its current contract. Shortly thereafter, county court officials informed Proctor's attorney they continued to expect past financial data, now by mid-March.

Days after that deadline was conveyed, Proctor committed suicide. The audit is ongoing.

Contact Deborah Lohse at dlohse@mercurynews.com or (408) 295-3983.

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CPS investigation: Despite changes, abused kids still die in Sacramento County system

By Marjie Lundstrom - mlundstrom@sacbee.com

Published 12:00 am PDT Sunday, June 22, 2008

They had names and faces once. Now they have coroner's numbers.

Social workers call them their "worst outcomes."

Adrian Conway was 3 when he became Sacramento's Worst Outcome No. 96-00441, a little boy who was beaten, burned, bruised, bound, tortured and starved to death by his angry, drug-abusing mom.

Others have followed: Christopher Cejas, 12, No. 02-03984. Alexia and Akira Noel, 3-month-old twins, Nos. 04-03525 and 03526. Keith Carl "K.C." Balbuena, 3, No. 05-05953.

What these dead children have in common – besides the ultimate betrayal by a parent or caregiver – is their link to Sacramento County's Child Protective Services. Each was once an open CPS case, permanently closed by the coroner.

Twelve years after the death of Adrian Conway, whose murder exposed a risky CPS policy and forced massive reform within the agency, Sacramento's most vulnerable children still are being failed at the most basic level, a five-month Bee investigation found.

The agency's budget has nearly quadrupled since Adrian's death; staffing has doubled. But the results for kids – on several key fronts – remain grim:

- A growing number of children who died of abuse or neglect in Sacramento County, or their families, were involved with CPS before their deaths. From Adrian's murder through 2006, 82 more children died – 35 of their families already known to CPS.
- Among California's 20 counties with the most children, Sacramento had the highest rate of kids being abused or neglected again within a year of an earlier CPS intervention.
- Kids are cycling in and out of the child welfare system at a record pace. Among the largest counties, Sacramento has the highest percentage of kids who land back in foster care within two years of CPS returning them to their families.

This was not the plan.

The legacy of Adrian Conway's 1996 death was envisioned as a revamped system to make kids safer, and some gains have been made. Timely social worker responses to the Child Abuse Hotline are up. Supervisor-to-social worker ratios have tightened.

But internal problems persist.

The paper trail of statistics and public documents – especially where children died or were injured – reveals an agency in 2008 still struggling to ensure adequate supervision and training, appropriate evaluation of children's risk, quality investigations and accountability for mistakes.

Examining 18 local cases in which children died or were hurt on CPS' watch, The Bee found that the tipping point for kids' safety often comes down to seemingly small things: a social worker with poor English skills, an unanswered knock at the door, a miscue between agencies, a lack of follow-through, an incomplete background check, a supervisor on vacation, a poor candidate for parenting classes.

"I just see such blatant examples of a lack of judgment by CPS," said Deputy District Attorney Robin Shakely, who specializes in child homicides and has served on both the county and state child death review teams. "They're not even close calls."

Shakely said she believes the agency has abandoned its promises of the Adrian era – to pull children out of troubled homes first and ask questions later – in favor of more leniency toward the caregivers. Shakely was assigned to the Conway case and has prosecuted a progression of child homicides since.

When a child dies with government workers involved in the case, no one inside the agency is held publicly accountable because of juvenile, employee and patient confidentiality. But if caregivers are arrested, details of how CPS intersected with the families often emerge.

Agency officials and social workers say they make the best decisions they can at the time. But hindsight sometimes affords a different view.

The agency was so concerned about Bradley Price's temper that it sent him to anger management classes in 2005. He attended one the night before he fractured his son's skull. Travis Smith, a 2-year-old who loved squirrels and the "Popeye" movie, was thrown into his playpen and died two days later.

From a phone inside Napa State Hospital, Feliciano Reyes said she was allowed by CPS to keep her 1-year-old daughter even after she stabbed her husband in the back in February 2000 – as long as she attended counseling and parenting classes. The following year, her 4-month-old baby girl died abruptly and was declared a sudden infant death syndrome case. In June 2004, the corpse of another of her babies, 10-month-old Felicia, was found in the back seat of Reyes' car as she drove through Los Angeles.

Last fall, Tamaihya Moore's family members said they begged CPS workers to seek

medical help when they saw the 17-month-old girl deteriorating in foster care. The coroner ruled the death a homicide, likely due to smothering, and the foster mom has been charged with murder. The family is suing CPS.

"It is absolutely horrible. How could this happen?" asked the girl's grieving grandmother, Debra Oliver.

Asked that question, CPS officials describe complex and time-consuming caseloads and the ravages of drug abuse, poverty and domestic violence. They deny any significant internal problems and characterize their worst outcomes as extreme, isolated incidents – sometimes the result of human error.

"Because we are an imperfect system made up of human beings trying to carry out the work, there are going to be times when there is an error in judgment," said CPS Director Laura Coulthard, who headed up emergency response for the agency when Adrian died.

Each child death is scrutinized, Coulthard said. When a mistake clearly has been made, the agency takes action against the employee that may range from a formal reprimand to firing.

"Accountability is essential," she wrote in an e-mail to The Bee, though she declined to discuss specific cases, citing county personnel policy.

However, The Bee found evidence in court files that some social workers continued in their jobs after failing to follow department policy in cases that ended with injuries or deaths.

One former social worker admitted under oath she had received no negative job evaluations after her decision in August 2001 ended with an 11-year-old girl being stabbed in the chest, barely surviving. ([Read an online-only story about this case.](#))

Martha McGowan had been on the job about two months, and her supervisor was on vacation, when she returned the girl to her father. McGowan later admitted that she had failed to check the family's CPS file, which would have revealed the man's 30-plus criminal convictions, according to the girl's lawsuit against the county.

McGowan did learn at the last minute that the father had been taking PCP – a drug that can cause violent, psychotic episodes – but released his daughter to him anyway. Four days later, the girl and two neighbors, including a 15-year-old boy, were stabbed repeatedly during another of the man's drug-induced rampages.

In a 2006 deposition for the lawsuit, McGowan said that she had "expected some sort of repercussions or something," but instead she and her supervisor talked mostly about her feelings. She couldn't recall ever being debriefed about her decision-making process, or what she might have done differently.

The social worker said she worked for CPS another two years, handling 200 more cases, before resigning to become a stay-at-home mom in Las Vegas.

"There's no way in the world she should have had this case unsupervised," said the girl's attorney, Ed Dudensing, a former prosecutor who has asked the state Supreme Court to review the case. The lower courts rejected the suit, saying state law makes government workers immune from liability for "discretionary acts."

Coulthard said this sort of internal breakdown should not have happened – and would not happen today.

VICTIMS HAD BEEN ON CPS RADAR

Deputy District Attorney Shakely and others are alarmed by the rising number of children known to CPS before their deaths.

From 2001 to 2003, the county recorded 14 child abuse and neglect homicides, in which five of the families had been involved with CPS, according to data from the county's Child Death Review Team. Over the next three years, child abuse and neglect homicides rose to 20, with 13 families having CPS histories.

In a special report last September to the Board of Supervisors, the team revealed that child maltreatment deaths – which include abuse- or neglect-related deaths such as drownings or overdoses – had more than doubled in Sacramento from 11 in 2004 to 24 in 2006. Of the 24 who died in 2006, 11 had histories with Sacramento CPS; nine had been involved with the agency within six months of their deaths.

"As a team, we want to see that the pattern of CPS involvement is changing," said Dr. Angela Rosas, a child abuse expert and former chairwoman of the county's Child Death Review Team.

It was CPS' involvement with Adrian Conway's drug-abusing mother that ignited the furor in 1996. Outrage was rekindled a year later when 2-year-old Rebecca Meza of Rancho Cordova was killed at home despite 10 prior reports to the agency.

At the time, the agency lamented its lack of resources, and the Board of Supervisors responded. Since Adrian's death, the CPS budget has risen from \$33.9 million to nearly \$125.9 million – a 271 percent increase in federal, state and local money, most spent on salaries, benefits and employee overhead.

Since Adrian's death, the population of children under 18 in the county grew by about 58,000, or 18 percent.

CPS officials say the agency's budget largely reflects its high social worker caseload, which has been the state's fifth highest since 2002 and exceeds state recommendations. Staff turnover and vacancies remain high, too.

"The caseload is out of control," said Ted Somera, executive director of United Public Employees (UPE) Local 1, which represents about 400 social workers.

Budget cuts decided last week will carve into CPS' new budget, which deeply concerns both union and agency officials.

Yet as far back as 1996, the citizens committee appointed after Adrian's death cautioned that money alone would not improve CPS. The 15-member panel, led by a retired Superior Court judge, concluded that "clearer procedures and protocols that make the best use of staff time should be the highest management priority."

The Bee's analysis of public records, coroner's data and thousands of pages of court documents reveals ongoing problems with some of CPS' procedures and protocols, particularly in how workers evaluate children's risk of being hurt.

15 REFERRALS FOR ONE INFANT

The Sacramento family of one 4-month-old girl, admitted to a hospital last October for suspected shaken baby syndrome, had 15 prior CPS referrals – 12 in Sacramento County and three in Butte County, according to the state Department of Social Services. The girl nearly died.

"How many times do you have to call CPS before they do anything?" asked Richard Melm of Sacramento, whose stepdaughter, Daelynn Foreman, starved to death in July 2006 while living with his ex-wife – despite six reports to Sacramento County's CPS of suspected neglect over a four-year period.

Daelynn's death was so shocking that CPS' own spokeswoman said the case "sent shudders down the corridors of all CPS."

When she died, the 12-year-old Orangevale girl with cerebral palsy had withered to 23 pounds, the average for a 1-year-old. The girl's mother, Brandy Foreman, has been charged with murder for allegedly having withheld food; she also faces drug charges.

Daelynn's death after six local referrals is acknowledged within Sacramento CPS as a problem case, one in which the worker "did not understand the situation well enough to be able to identify an appropriate intervention," said Coulthard, who took the agency's top job last year after rising through the ranks since 1985.

The department previously told The Bee that an internal investigation had resulted in "personnel actions," but would not elaborate.

Out of Daelynn's case, the agency developed new programs and assigned workers to specialize in "medically fragile" children and medical neglect referrals. It also created a Medical Neglect Review Team to monitor the more complex cases.

Coulthard and other top CPS managers say their ability to evaluate children's risk and make good decisions also has been vastly improved by a procedure adopted after Adrian's death. Workers in five CPS programs, including emergency response and family maintenance, are required to use what's known as SDM, or Structured Decision Making.

The written, check-off system provides structure to social workers trying to assess a child's safety and risk by making them note present circumstances and history such as prior CPS contact, excessive discipline, drug abuse or domestic violence.

SDM has been widely praised in California for increasing consistency and accuracy, and improving outcomes for kids.

But only if it's used correctly. The CPS oversight committee, in its examination of four child deaths, found that some completed SDM forms "reflected inadequate information." The committee also found that social workers were completing the forms at the end of cases, rather than relying on them for key decision-making along the way.

"They were doing it as part of closing their paperwork," said Alyson Collier, the committee's chairwoman. "So it was getting done, but it wasn't being used appropriately."

The spotlight on child deaths and CPS' inner workings has intensified in the past 10 months, as both its oversight committee and the death review team released critical reports to the Board of Supervisors.

The oversight committee cautioned supervisors in August that problems have persisted over the past decade, and that "a systemic change needs to take place."

The committee cited inadequate supervision and training as problems dating back to the Adrian era. In reviewing four child deaths, it found that social workers "did not receive regularly scheduled supervision." In one case, a worker tried for three days to get help from a supervisor and "found him to be unavailable."

A NEW EMPHASIS TO SAVE CHILDREN

As its top recommendation, the oversight committee advised CPS to make clear to social workers and families that "it must err on the side of child protection as opposed to family reunification."

Acting independently, the Child Death Review Team came to a similar conclusion: CPS must place child safety over keeping families together "in both written policy and active practice."

The Department of Health and Human Services agreed with both committees' findings and, when Coulthard came back before the board in March, supervisors lauded the agency's plans for improvement.

But a disconnect between CPS policy and what happens in the field was cited over and over by members of both citizens groups.

"I think that's where the breakdown is: It's practice vs. policy," said Sgt. Jeff Reinl, a member of the oversight committee and head of the Sacramento County sheriff's child abuse bureau.

CPS Division Manager Melinda Lake candidly said that the agency failed to follow its own policies in the 2005 beating death of Keith Carl "K.C." Balbuena, a 3-year-old with a speech impediment whose mother and roommate were convicted of the crime earlier this year.

The first CPS emergency response worker, who speaks with a heavy accent, admitted in court that he closed the case even though he couldn't really understand the boy. A second social worker visited the apartment nine times but never found the couple, despite agency guidelines listing numerous strategies for locating a family.

The boy died eight days after that worker's last unsuccessful visit.

But Lake, who then supervised emergency response workers, also argues that the community at large bears some responsibility for its worst outcomes.

Christopher Cejas was 12 when he was tortured, starved and beaten to death in August 2002 while visiting his father, a registered sex offender.

A social worker had gone to the Watt Avenue apartment complex in June 2002 to follow up on a neighbor's 1:30 a.m. call to CPS nine days earlier. The anonymous caller claimed to have heard a terrible beating of a boy named Christopher, about 10 years old.

The case was not flagged as an emergency, and, lacking a last name or apartment number – and getting no help from the apartment manager – the social worker left. The case was closed as "unable to locate."

"If a child being severely beaten and screaming doesn't deserve an immediate response, who does?" asked Shakely, who prosecuted the case.

The upstairs neighbor overheard the boy being beaten again 11 weeks later but did not call CPS or 911. That vicious beating, which lasted for hours, proved fatal to Christopher Cejas.

Christopher's North Carolina family said the social worker could have found him in time had she gone to the local school and aggressively interviewed residents at the apartment complex. State regulations and CPS' employee handbook clearly lay out requirements for workers to talk with people beyond the immediate family in their investigation, including teachers, neighbors, police and others.

Lake said scant information provided in the anonymous call led the social worker to conclude she was in the wrong place.

"This case just screams out for civic responsibility," said Lake, who thinks many more residents knew of the horrors inside Apartment 13 but did nothing.

The county has staked much of its strategy since Adrian's death on preventing family crises, creating eight Family Resource Centers in high-risk neighborhoods that provide services to help families cope, and care for their children.

Families whose cases are investigated and opened by CPS, but who retain custody, are offered services including counseling, drug treatment, parenting and anger-management classes.

"Most of our families need help and support," Lake said. "Most aren't vicious

murderers."

The agency points to success stories – women like Angela LeBeau of Sacramento. The former meth addict was reunited with her four children as she took 180 classes on topics ranging from alcohol and drug use to parenting to self-esteem. She works for CPS as a meeting scheduler and a parent leader, helping others navigate the system.

Coulthard and her boss, Lynn Frank, director of the county's Department of Health and Human Services, complained that the recent committee reports' focus on child deaths – the "worst outcomes" – creates a distorted picture of the large agency and its hardworking staff.

"If that's all they see, it's fairly easy to jump to conclusions that we aren't keeping kids safe," Frank said.

But William Grimm, a senior attorney at the Oakland-based National Center for Youth Law, said it is critical to publicly examine child deaths because they are often "just the tip of the iceberg of a system that's not treating kids well."

SOME STATISTICS SPELL TROUBLE

Grimm said he sees a troubling combination in Sacramento County's child welfare data.

Among the state's 20 largest counties, based on child population, Sacramento County has the highest percentage of kids reunited with their families within a year of being placed in foster care, according to a Bee analysis of the most recent data compiled by UC Berkeley's Center for Social Services Research (<http://cssr.berkeley.edu>). The county's reunification rate more than doubled between 1998 and 2006.

What sounds like good news comes with a giant caveat: Sacramento also has the highest percentage of kids re-entering foster care after being reunited with their families, triple the rate of Los Angeles County, and more than double that of San Diego, Fresno and Orange counties.

Kids are coming right back into the system.

"What that says to me is, this is a system that is not operating well," Grimm said.

"It's not protecting children, and it's not helping families, either, because you're putting children back in homes that are not prepared or supported to maintain the children in the homes," he said. "And they're coming back in re-victimized."

In Sacramento County, kids are being re-victimized at an alarming rate, as well.

The data show that, among the largest counties, Sacramento has the highest rate of children being abused or neglected again within a year of CPS confirming a report involving them. One in five kids abused or neglected in 2004 was referred to the agency again within 18 months – more than 1,000 children.

Even after CPS cases are closed, repeat abuse and neglect in Sacramento is among the highest in the state's urban counties.

CPS officials reject such county-to-county comparisons, saying each operates independently, with different policies and programs. Yet CPS' own improvement plan states that reducing repeat abuse and foster care re-entry are high priorities.

Coulthard said the county has made "slow and steady" progress in cutting back on repeat abuse, mostly through community partnerships to quickly hook troubled families into support services. "We know we're improving, but we're not good enough," she said.

The county hopes to address high re-entry rates with team decision-making, a strategy that pulls together children, social workers, birth families, service providers and others to help make decisions about a child's placement.

Without team decision-making, planning has been inadequate, Coulthard said, making children susceptible to problem placements. But she noted that the vast majority of kids who landed back in foster care last year had not actually been abused or neglected again; instead, their caregivers had violated conditions of the requirements set when they regained their children.

Alyson Collier, chairwoman of the CPS oversight committee, said the team approach eases the burden of a "lone social worker out in the field," making difficult decisions in isolation.

"We have to stop doing business that way," Collier said.

A LONE WORKER IS OVERWHELMED

The consequences of a lone worker shouldering a complex case can be extreme.

In one horrific example, CPS handed off a troubled family to a home visitation worker outside the agency, who knew her limitations but couldn't get the agency to intervene.

Alexia and Akira Noel, 3-month-old twins, were found dead in July 2004 by their father, Ernest Noel, in a sweltering upstairs bedroom.

Before the twins were born, CPS had been monitoring Noel and his girlfriend, Vanessa Hackett, who were both mentally disabled and struggling to raise a daughter, according to court records. When Hackett became pregnant with twins, CPS "became very concerned about the couple's ability to care for three young children," according to a document from Noel's attorney.

CPS enlisted the help of Birth & Beyond, a county program now part of CPS that provides support and guidance to pregnant women and struggling new parents.

After the twins' birth in April 2004, a Birth & Beyond worker visited the apartment at least 16 times over three months, finding the home and children in varying states. In

May, she persuaded Hackett to take the babies to the Sacramento Crisis Nursery, but CPS returned the girls to the home six days later, after Noel assured the agency he and Hackett had completed a parenting class.

Birth & Beyond stepped up its visits, bringing in a public health nurse, but the Birth & Beyond worker cautioned CPS in July that the case was "intense" and perhaps beyond her scope, the prosecutor's trial brief shows. Again, CPS decided "no further actions were necessary since Birth & Beyond was involved with the case," according to the brief.

At this point, one of the twins had a diaper rash so severe her bottom was bloody.

The saga abruptly ended on July 14, 2004, when the girls were found dead inside the apartment. The coroner ruled the deaths homicides; both parents went to prison.

Coulthard acknowledged that the twins' deaths were an example of "practice not being aligned with procedure." The agency's response "wasn't appropriate," she said, and the family should have been a formal child welfare case.

Instead, Alexia and Akira Noel became Worst Outcomes 04-03525 and 03526.

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CPS investigation: Changes help Sacramento County's 'medically fragile' kids

By Marjie Lundstrom - mlundstrom@sacbee.com

Published 12:00 am PDT Sunday, June 22, 2008

The call was anonymous: A 14-year-old boy with a blood disorder wasn't getting his meds.

To many, this may not sound like possible child abuse or neglect. But the call in January to Sacramento County's Child Protective Services triggered a unique response from the agency, which is trying to better serve a population of particularly vulnerable children.

Nearly two years after the death of Daelynn Foreman, a 12-year-old girl with cerebral palsy who starved to death, Sacramento CPS has devised a plan to deal with children known as "medically fragile." These are the children with chronic conditions and special health care needs, kids with diabetes, lung disease and other disorders.

Medically, they are a challenge for any parent. For parents struggling to get by, they can be an additional source of pressure, making them susceptible to abuse and neglect.

"It's hard enough raising kids, but when you have a child with severe medical problems, it really adds a lot of stressors," said Dr. Mary Jess Wilson, chairwoman of the county's Child Death Review Team and medical director of California Children's Services.

A special report from the death review team, presented to the Board of Supervisors last September, found that 12 of the 52 child maltreatment deaths in Sacramento County from 2004 to 2006 – nearly a quarter – involved children with chronic medical conditions. In 2006 alone, seven of the 24 maltreatment deaths involved medically fragile kids, four of whom had been involved with Sacramento CPS before their deaths. Three of those children were involved with the agency within six months of dying, the death review team found.

Concerned about the numbers, and CPS' prior knowledge of the cases, the team recommended ways the agency might head off abuse and neglect of this population.

"This is a new type of homicide we're seeing," said Dr. Angela Rosas, a child abuse expert and former chairwoman of the Child Death Review Team.

CPS acted. The emergency response team last year devoted two full-time social workers to specialize in cases of medically fragile children or medical neglect referrals. A public health nurse has been assigned to consult with the social workers and accompany them on some visits.

The agency also formed a Medical Neglect Review Team of a variety of health professionals and child specialists to monitor more complex referrals. Since last August, the team has reviewed 66 cases.

This is not the first time the county has focused on a trend in abuse-related deaths and injuries. In 2005, Sacramento's Child Abuse Prevention Center secured a grant from Sutter Medical Center to start a program at area hospitals to educate new parents about shaken baby syndrome. As a pediatrician specializing in child abuse, Rosas had been alarmed by statewide hospital data showing Sacramento with one of the state's highest incidences of shaken baby cases.

Since the hospital program began – the first of its kind in California – those numbers have improved, said Rosas, who persuaded the four local hospital systems to sign on. The state's data, released by the Child Death Review Team, show that Sacramento County's rate of shaken baby syndrome among children under 2 dropped substantially between 1998 and 2006, with much of the change in the later years.

Sacramento had eight shaken baby deaths in 2005, and only one in 2006, according to the team.

Medical neglect poses unique challenges for CPS, whose social workers "are not medical professionals and shouldn't be trying to make those calls," said CPS Director Laura Coulthard, who said she believes Daelynn Foreman's death was an awakening for the agency. Before the girl wasted away to 23 pounds, CPS had received numerous reports that she was being neglected.

"If you don't know what you're looking at or what you're looking for, you can really make a bad call on what's going on," Coulthard said.

While Daelynn's case is widely known, other fragile Sacramento children have died with little public attention. Among those contained in public documents and court records:

- A 4-year-old boy died from a prolonged seizure in August 2006 after being left unattended in the shower. Seizure medications were found to be "very low to non-existent" in his body. Before his death, CPS received at least three allegations of physical abuse or neglect in the home and a case was opened in 2002 based on substantiated physical abuse. That case was closed by the court the following year after the family reportedly "completed services." No one has been arrested in connection with the death.
- An 8-year-old girl who also had cerebral palsy died of severe head injuries in June 2006, allegedly at the hands of her mother's boyfriend. Six months after Yessenia Ruiz died, Carlos Zetino was charged with the girl's murder after being arrested on suspicion of threatening her mother with a screwdriver. At that point, the surviving children began to open up, according to a Sacramento police case summary. The

family had an extensive CPS history in San Mateo County, the Sacramento prosecutor said.

- A 4-year-old girl who had "special needs," including a cleft palate and other medical conditions, was killed by her mother in January 2000. The young mother, Alicia Perez, was raising five children and was described in court documents as being overwhelmed and frustrated with the victim. Amalia Perez, who died of brain injuries, was severely bruised and had puncture wounds on her body and gouges in her feet, where the mom reportedly battered her with a vacuum cleaner.

The January call to CPS about the boy with the blood disorder opened a window on another troubled family. This outcome was much different.

Social worker Victoria Staebler skillfully tracked down the mother at an apartment complex, despite being given a bad address by the anonymous caller. Staebler is one of the two emergency response workers newly assigned to work on these cases.

At the one-bedroom apartment, with a dirty carpet and overflowing ashtray, Staebler found the 14-year-old boy sprawled on a love seat playing video games instead of attending school. Bit by bit, layer by layer, she extracted the story from the mother: No, the boy hadn't "needed his medication" for about two years. She couldn't remember his last doctor visit. She wasn't working and had no car or phone. She had a history of domestic violence and mental illness. She had been evicted and was moving. And, she was pregnant.

"I think you could really benefit from a little extra support," Staebler told the woman, discussing how she would hook the family back into medical care and other services.

"I would appreciate any kind of resources I can get," the mother said, admitting to Staebler she was a little afraid of CPS.

The social worker smiled, telling the mother: "It sounds like we showed up at a good time."

Epilogue: CPS opened a case and the mother voluntarily agreed to receive services. She and her son temporarily moved to a hotel paid for by a nonprofit group and are now settled into another apartment. Staebler gave the mom bus passes and helped her get public assistance. A county public health nurse visits regularly and, along with a social worker from the Family Maintenance bureau, will continue to follow the family when the baby is born. The teenage boy is being seen at a clinic for his medical condition, which appears to be stable.

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CPS investigation: How system changed after 3-year-old's sad death

Published 12:00 am PDT Sunday, June 22, 2008

11/95: Sacramento County's Child Protective Services closes its six-month investigation into the household of Tammy Holycross, a Del Paso Heights mother of two girls, ages 11 and 6, and a 3-year-old boy, Adrian Conway. The agency determines the children's risk to be "moderate"; Yolo County officials had worked with the mother in 1993 before she moved to Sacramento.

1/21/96: Adrian Conway is hospitalized in critical condition with skull fractures, burns and bruises, and is severely malnourished. Holycross, 28, eight months pregnant with her fourth child, is arrested on suspicion of child abuse.

1/22/96: Holycross is booked into the county jail on charges of attempted murder, felony child abuse and torture.

1/23/96: Roger Dickinson, chairman of the Board of Supervisors, calls for a full investigation. "That the county agencies could have had as much contact with the children and family and not recognize the danger the child faced is of grave concern," he said. "The public depends on us to protect and safeguard the health and welfare of children."

1/24/96: Plans are announced to convene a panel of independent experts to examine what went wrong in the case, the first time a review panel has ever been formed in this county to analyze an abuse case.

1/26/96: Adrian dies at UC Davis Medical Center.

1/31/96: About 150 people attend a memorial service for Adrian at a community center in Del Paso Heights.

2/5/96: Retired Superior Court Judge Eugene Gualco is appointed to lead the committee to investigate the boy's death and determine whether problems in the county's child protection system contributed.

5/96: The committee concludes that CPS is leaning too strongly toward keeping troubled families together, leaving children at risk. The committee, which issued 43 findings and 35 recommendations, says that decisions by child protection workers

"appear to be heavily influenced by a bias toward family preservation."

7/30/96: The Board of Supervisors unanimously accepts policy changes in the way abuse cases are monitored and investigated. The Department of Health and Human Services, which oversees CPS, recommends the changes in response to criticism from an independent investigative committee.

4/28/97: Rebecca Meza, 2, dies in a hospital two days after her mother's boyfriend, Joseph Carlos Engle, plunged her head under bath water until she lost consciousness. County agencies had extensive involvement with the girl's mother, Traci Elizabeth Kaufman, who used methamphetamine and lived with a convicted felon. CPS had closed its case file on her and her five children the previous December, determining the risk to be moderate to low.

6/10/97: Bowing to public pressure, the county agrees to become more aggressive in removing children from homes with known drug abuse, especially methamphetamine. Prior to the shift, CPS had defended its policy of tolerating some drugs in the interest of keeping families together.

9/11/97: Rebecca's mother, Traci Elizabeth Kaufman, pleads guilty to 19 felony charges related to the girl's death. Two charges, murder and child abuse resulting in death, were dropped in exchange for her testimony against her boyfriend.

9/23/97: The Sacramento County Board of Supervisors approves a record budget increase for the Department of Health and Human Services to add 58 CPS staff positions to deal with the demands of removing children from drug-abusing homes. The board later approves adding more positions.

2/19/98: Tammy Holycross pleads guilty to second-degree murder and torture in the death of Adrian Conway on the day she is scheduled for trial. She is later sentenced to 23 years, four months, and sent to Valley State Prison for Women in Chowchilla

9/27/99: Joseph Carlos Engle pleads guilty to first-degree murder and four felony counts of child abuse in the death of Rebecca Meza. Retired Judge Eugene Gualco, who headed the special investigation committee, complains that the county didn't make reunification of families secondary to child safety until after Rebecca's death. "I think it was a wake-up call that (the county) had to take our recommendations from the Adrian Conway case more seriously than it had," he said.

1/28/00: Traci Kaufman and Engle are sentenced to lengthy prison terms. Engle gets 35 years to life; Kaufman gets 72 years.

6/27/01: Grappling with soaring foster care numbers, the grand jury asks the county to reassess whether its new policy emphasizing child safety is working, and whether officials should return to the practice of helping troubled families stay together.

1/30/02: Despite emotional protests and pleas from parents and family members, the Board of Supervisors declines to reverse its policy of emphasizing child safety

over keeping a troubled family together.

Source: Bee files; court records

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CPS investigation: Abuse case overwhelmed novice social worker

By Marjie Lundstrom - mlundstrom@sacbee.com

Published 12:00 am PDT Sunday, June 22, 2008

It was a perfect storm: A drug-abusing dad with more than 30 prior convictions, an inexperienced social worker and an 11-year-old girl, buffeted in the middle.

While Sacramento citizens committees examine child abuse and neglect deaths, focusing on the most extreme cases, a number of children who don't die have their own hazardous brushes with the system. This is the story of one such child.

The girl's case comes to light only because she sued Sacramento Child Protective Services and two social workers for what happened to her in August 2001 - five years after the death of 3-year-old Adrian Conway, and the county's promise to place child safety over "family preservation."

Hers is a harrowing tale of "a child's life shattered by the violence of her father and the utter abdication and failure" of Sacramento CPS to protect her, according to her attorney, Ed Dudensing, a former deputy district attorney now in private practice.

"She's a great kid," her attorney said. "And everyone failed her."

The girl, who is not being named by The Bee because she was a juvenile victim, was first removed from her father's care by CPS in 1998 after she missed 70 out of 140 days of school, according to lawsuit documents.

After a year of clean drug tests, along with counseling and anger management, the father regained custody of his daughter in 2000.

The reunion would prove disastrous.

In the early morning hours of Aug. 27, 2001, the 11-year-old girl was stabbed in the heart and lung by her father after a CPS worker returned her to her home without fully investigating the man's ongoing drug use or criminal past, according to the lawsuit. The suit accuses CPS of failing to fulfill its mandatory duties to protect the girl and failing to conduct a thorough investigation, leading to her return to an unsafe home.

A Sacramento Superior Court judge sided with the county, saying that CPS and its

social workers are immune from such liability under the government code. In April, the 3rd District Court of Appeal in Sacramento agreed with that judgment, saying it was not the court's place to meddle in the Legislature's "policy calculation."

"The Legislature has determined that government could not function if its employees were subject to liability for their discretionary acts, even where the discretion is exercised badly," the Court of Appeal found. Dudensing has asked the state Supreme Court to review the case.

Public documents filed in the lawsuit and the criminal case provide a rare look inside CPS when a case goes badly.

The girl was taken into protective custody the night of Aug. 21, 2001, when her dad was arrested for being under the influence as he screamed and ranted outside their apartment, according to the lawsuit. CPS had 48 hours to investigate and decide whether to release the girl to her dad, or initiate a petition to make her a dependent of the court.

Dudensing said the case was given to a "novice," Martha McGowan, a social worker who had been at CPS about two months. Her supervisor was on vacation when she drew the assignment, records show.

In deciding the girl's fate, McGowan did not review the family's prior CPS file, as required by the CPS handbook, she admitted later under oath. The file would have revealed the father's 30-plus arrests, mostly for drug and alcohol offenses and domestic violence. McGowan said she ordered the file but never got it before making her decision, according to her deposition in the lawsuit.

McGowan also was under the impression the father had been arrested for drinking too much, though the protective custody report stated that he'd been using drugs, the lawsuit and deposition show. She did not know he had been using PCP, a drug that can cause violent psychotic episodes.

It was not until McGowan returned the girl on Aug. 24, 2001, that the father told her about the PCP, but she released her to his care anyway, lawsuit documents show.

The social worker said she returned the girl because the father had done "very well" with his services earlier, and was willing to accept responsibility and participate again in getting help, her deposition shows. She said she had found no evidence of abuse or neglect in this case or the earlier one.

Four days later in the early morning hours, he attacked the girl, first ordering her to commit suicide by drinking nail polish, court records show. She refused. He gave her a knife and told her to stab herself. She pushed the knife away.

He then stabbed her in the chest and, when she ran out of the apartment, he dragged her back and stabbed her again. He then charged a neighbor and her 15-year-old son, repeatedly stabbing both - and also himself. All survived.

The father, convicted in 2003 of three counts of attempted murder, expressed

remorse at his sentencing and apologized to his daughter and neighbors. "I now live in sorrow daily," he said.

Despite his contention that he was in a psychotic, delusional state that night, he was sentenced to 20 years, 4 months in state prison.

Attorney Dudensing said he believes CPS did "a pathetic job," and that immunities are too sweeping when the agency "didn't even do the very basic things." The lawsuit named the county along with McGowan and a second social worker who had interviewed the girl at the Children's Receiving Home when she was taken into protective custody.

Carol A. Wieckowski, the attorney who represented the county, said immunity is critical for this type of work.

"I don't know who'd want the job if every decision you made in the day would subject you to liability and you'd get sued," she said.

Wieckowski said CPS had no evidence of any prior violence toward the child, or that the girl had ever expressed fear of her father.

"These are not easy decisions," she said. "Even with all of our systems in place, you still are trying to second-guess human nature."

The girl, who turned 18 last month, was recently living in a foster home. For more than five years after the crime, she lived with her guardian, Pamela Chatham of Orangevale, but eventually ran away.

"I believe in parent reunification, too, whenever it's possible," said Chatham, adding that she loves the girl, whose father was "so violent and so awful.

"He's a real scary guy ... And they just kept giving her back to him."

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The trial of K.C. Balbuena's homicide

(click on the boxes to see details)

The victim

Keith Carl "K.C." Balbuena

The defendants

James Morris

Carline Balbuena

The judge

Helena R. Gweon

Balliff

Deputy Gary Gaspar

Defense attorneys

Greg Foster

Joel Deckler

Prosecutor

Robin Shakely

Court reporter

Karol Moncrief

Verdict and sentencing

Linda Hennessy

Lisa Carl

Jurors

Linda Hennessy

Lisa Carl

The investigation

Sgt. Connie Perkins

Detective Sue Johnson

Detective Bruce Warner

Detective Kevin Givens

Detective Tom Koontz

Detective Juan Hidalgo

Evidence

Mitchell Brooks/mbrooks@sacbee.com Autumn Cruz/acruz@sacbee.com Marje Lundstrom/mlundstro

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CPS investigation: Charts

Published 12:00 am PDT Sunday, June 22, 2008

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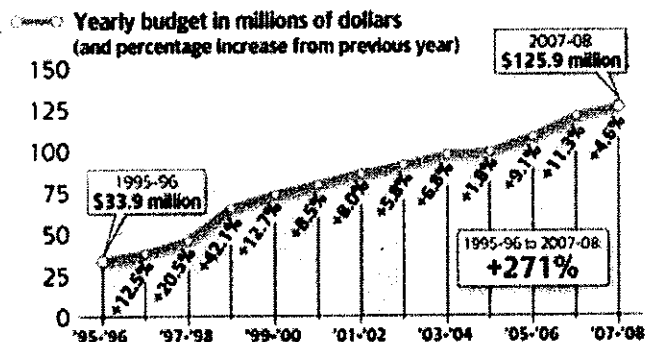
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Sacramento County CPS budget

Fiscal year budgeted appropriations, 1995 to 2008

The county's CPS budget, which includes federal, state and local dollars, grew by 271 percent between fiscal 1995-96 and 2007-08.



Source: CPS

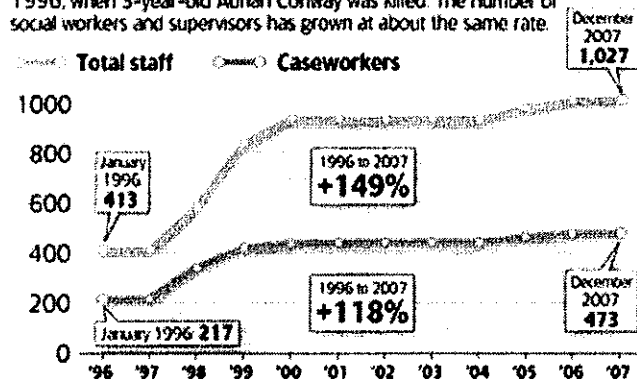
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Sacramento County CPS staffing

Total staff and caseworkers, from 1996 to 2007

The county's CPS staff has more than doubled since January 1996, when 3-year-old Adrian Conway was killed. The number of social workers and supervisors has grown at about the same rate.



Note: Figures are from January of each year, except for 2007

Source: CPS

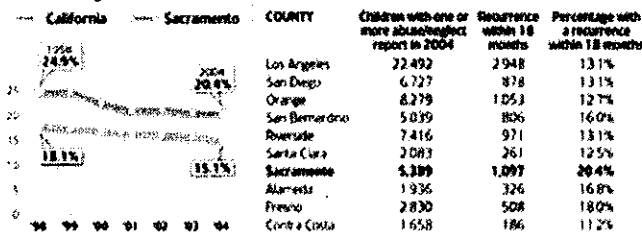
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Recurrence

of abuse or neglect within 18 months

Among California counties with the most children, Sacramento has the highest rate of kids being abused or neglected again within 18 months of an earlier CPS intervention. The rate, after slowly declining, exceeds the statewide average.



Source: Child Welfare Services Reports for California, referenced June 2008 from University of California Berkeley, Center for Social Services Research and Policy

<http://csr.berkeley.edu/CWSOreports>

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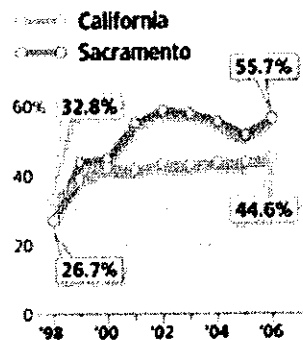
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Reunification

with families within 12 months of entry into system

Sacramento far outpaces the state in the percentage of kids reunited with their families within a year of being removed from their homes by CPS and placed into foster care.



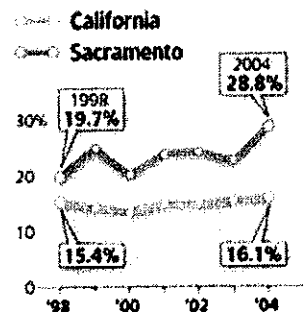
Note: Yearly figures represent the percentage later reunited after entering foster care between January and June of that year.

Source: Child Welfare Services Reports for California. Retrieved June 2008 from University of California, Berkeley, Center for Social Services Research Web site: <http://cssr.berkeley.edu/CWSCMSreports>

Re-entry

into foster care within 24 months of reuniting with families

Among large counties, Sacramento consistently has the highest percentage of kids who leave foster care in a given year to go home to their families, only to come back into the system within 24 months.



Note: Yearly figures represent the percentage returning to the system later after reuniting with their families in that calendar year.

Robert Dorrell@csrssr@sacbee.com

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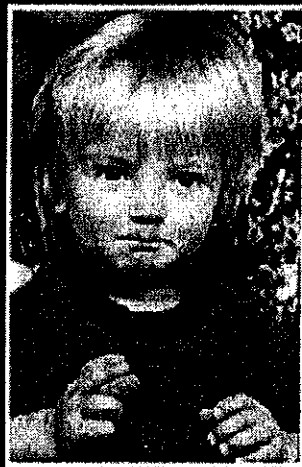


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Faces of the unprotected

Last Updated 5:56 am PDT Sunday

UNPROTECTED



Three-year-old Adrian Conway was beaten, burned, bruised, bound, tortured and starved to death by his angry drug-abusing mother in 1996. His murder, which happened despite the family's previous involvement with Sacramento Child Protective Services, exposed problems within CPS and forced massive changes within the agency. Still, 12 years after Adrian's death, children are being failed. Here are some of the cases.



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CPS investigation: Agency's failures in abuse case end with boy murdered

**By Marjie Lundstrom - mlundstrom@sacbee.com
Published 7:43 am PDT Monday, June 23, 2008**

He was 3 years old, a little boy who wanted a toy train for Christmas.

A month before the holiday, Keith Carl "K.C." Balbuena was beaten to death.

The case unfolded this year in a Sacramento courtroom, where two juries weighed the fate of the boy's mother and her male roommate, accused of murdering the child.

Over six weeks, more than 40 witnesses would testify; 209 exhibits would be marked. A 911 call would crackle through the third-floor courtroom. One defendant would take the stand. And then the jurors would have to decide: Who was responsible?

The life and death of K.C. Balbuena was more than a tragic whodunit. Beyond the double doors of Department 15, the murder trial would reveal the complexities of child abuse deaths - the betrayals, the denials, the changing stories. It would also highlight the gravity of social workers' decisions, and the outer edge of what can happen when established policies aren't followed or risk factors are overlooked.

K.C. Balbuena belongs to a small but growing group of Sacramento children who were known to Child Protective Services before their deaths. In each case, someone suspected abuse, and reported it, but the kids died anyway.

CPS Division Manager Melinda Lake acknowledges today that the agency "could have and should have tried different strategies and different things" to help the boy.

In its examination of the agency, The Bee followed K.C. Balbuena's case from the first day prospective jurors stepped into Department 15 and into a world where the victim never made it to kindergarten.

It began with a 911 call.

A 3-year-old boy was unresponsive.

"He's just not breathin'," a man told the 911 operator. "... Or he's just not blinking. He's looking right at me. K.C. K.C."

A woman wailed in the background. "K-Ceeeeeeeeeee," she sobbed, over and over.

"... He has a black eye from falling on the - on the - ah - in the, ah - kitchen from yesterday," the man said. "But other than that, he's just kind of looking to the side ..."

The woman shrieking was Carline Balbuena, then 28, the mother of the 3-year-old lying face-up on a bed in his pajama bottoms. The man on the phone was James Christopher Morris, 31, who had moved into the apartment earlier that year with his own 3-year-old daughter to share expenses with Balbuena. It was 7:45 a.m. on Nov. 17, 2005.

The story hidden inside this two-bedroom apartment on Marigold Lane was about to emerge.

Unconscious but breathing, K.C. Balbuena was rushed by ambulance to UC Davis Medical Center. His injuries were devastating: Battered and bruised head, neck, torso, arms, hip, back and buttocks; a black eye and hemorrhaging in his abdomen; a severe burn healing on the sole of his right foot.

At the hospital that afternoon, Sacramento County Sheriff's detectives Sue Johnson and Jessica Villareal, the lead investigators, introduced themselves to Carline Balbuena and James Morris. Johnson was immediately struck by Morris' confrontational manner.

"My first impression was that Jim was very angry and hostile, and that was very concerning to me," said Johnson, now an investigator in the District Attorney's Office.

The investigation would reveal many aspects of Morris' pungent personality. On his MySpace page, Morris described himself as "White Trash without the trailer ... I'm Foul, Rude, Insensitive, Disruptive, Selfish, Shallow ... NO Morals, Fat, DRUG ADDICT, Ill tempered, Inconsiderate, Crude, Obnoxious, Procrastinator, Callous ... But hey ... I'm honest!!"

Every member of the sheriff's 10-person Child Abuse Bureau would eventually work on the case. Sgt. Connie Merkins, who headed the bureau at the time, could see the red flags: the boy's injuries before his death, the fishy explanations, the family's lack of money, a man unrelated to the victim living in the home.

Investigators dug in.

Initially, the couple's stories were consistent. On the day before K.C.'s collapse, they said, they were taking turns watching Balbuena's two children at the apartment because she had recently lost a child care subsidy that helped pay for day care, according to court papers and trial testimony. K.C. was an awkward child with a lazy eye and a speech impediment who loved playing in the park; Morris' daughter, about the same age, was more advanced.

Balbuena and Morris, both single parents, had met while working together at a Sacramento real estate listings company a mile and a half away. Now they were sharing Balbuena's car and cell phone. Balbuena wanted romance, but Morris, for the most part, did not.

That afternoon, Morris was punishing the boy for not taking a nap, making him jump up and down for about a half-hour to tire him out, according to testimony from the deputy sheriff who took Morris' statement. During the punishment, Morris told the officer, he was reading a book when K.C. fell on the kitchen floor and got his black eye.

Balbuena told Detective Johnson that K.C. had vomited earlier in the day, when she came home for lunch. Balbuena wanted to go Christmas shopping that evening, but K.C. wouldn't nap.

Later, when he still wouldn't sleep, the boy was again instructed to jump up and down, then stand in the corner for 30 minutes while Balbuena and Morris played cards, prosecution papers recount. K.C. threw up again that evening, and they awoke to his vomiting the following morning, they said.

Morris made K.C. stand in the doorway to the bathroom, but the boy buckled and collapsed. Balbuena called 911.

Soon, other disturbing details began to tumble out, including Balbuena's admission to Detective Johnson that her children, ages 15 months and 3, had been left alone in the apartment for blocks of time since the previous week while she and Morris traded places during the workday. Balbuena recalled that she did hit K.C.'s head lightly against the wall during their card game because he kept turning around, the DA's trial brief would state.

Morris admitted to child-abuse detectives that he had been smoking pot throughout that day and evening, as he did on most days. He surmised that the boy's injuries came from a fall from the crib. Morris insisted there was "no violence in this house," prosecution documents show, but he did say he had spanked K.C. with a spatula the night before the boy was hospitalized.

At the hospital, tensions were mounting. Within a day of his admission, pressure on K.C.'s brain had increased, requiring emergency surgery.

It hadn't worked. As a hospital social worker tried to explain the finality of the boy's brain death, Balbuena and her estranged husband, the boy's biological father, argued and began to swing at each other until the social worker pushed them apart, the worker would testify at trial.

K.C. Balbuena died at 8:10 p.m. on Nov. 18, 2005.

Later that night, Balbuena and Morris went to a drive-in movie.

She hit the boy at least 20 times

K.C. Balbuena had been dead for two weeks when his mother and Morris drove to the Bay Area to deliver clothes for K.C.'s viewing, Mass and burial in Pittsburg and Antioch, near the boy's extended family. It was their second outing to the Bay Area since the child's death.

Once again, the couple went sightseeing in San Francisco, posing and smiling in front of landmarks and snapping pictures. Balbuena was familiar with the city, having moved to the Bay Area from the Philippines as a young girl and later helping her mother run a day care operation there. The couple spent a night in scenic Pacifica, and Balbuena said she took LSD for the first time.

After the services, Balbuena and Morris agreed to come to the Sheriff's Department on Dec. 7 to talk again with investigators.

The story was about to change.

As then-head of the child abuse bureau, Sgt. Merkins devised the strategy: Detective Johnson, known for being a "bulldog" interviewer, would take Morris in one room; Detective Bruce Wanner would talk with Balbuena in another.

Aware of Morris' temper, Wanner was leaning toward Morris as the prime suspect, thinking Balbuena might give him up.

In a plain, small room with a table and two chairs, Carline Balbuena began to talk. And talk and talk. Wearing jeans, her long brown hair loose down her back, she talked about being a Christian, using meth, being disappointed by family and longing to have a romance with Morris, but feeling rebuffed. "He just thinks of me as a sister," she said dejectedly.

Wanner treated her deferentially. It was part of his plan - to be "sympathetic, minimizing, soft" to open her up, he would say later.

Balbuena told the detective how she had resumed smoking methamphetamine about a month before K.C.'s death when she took a second job and needed to stay awake.

In the interview, later shown in court, she said she was smoking meth in the apartment bathroom the day before K.C.'s collapse - and that she was the one who had repeatedly struck him because she was "in a bad mood" and angry with her son.

She hit the boy at least 20 times that afternoon with her hand and a baby wipes container, she told the detective. She was mad that he had vomited. Later, she was mad because he wouldn't nap. She was mad that he wouldn't face the wall as ordered. That evening, she said, she slammed his head against the wall, again and again.

She was, she said, "hella stressed."

Eventually, she showed Wanner how she did it. Taking a child-sized doll, dressed in

overalls, she banged the doll's head against the interview room wall, over and over.

Wanner felt her anger rise and believed he was getting a taste of her fury. Even Balbuena remarked on the sensation.

"I'm just - I'm just - I can't believe I'm feeling the rage again ... I feel really hella p--ed off again like I was that - that night cuz I was remembering how - how irritated I was ..." she said in her confession, played back to the juries.

Wanner still wanted to cover the bases. After all, suspects can always recant. Wanner asked if her confession was voluntary. If she was lying for Jim.

Balbuena stood by her story. Her conscience, she said, had been bothering her.

Despite the revelations, Merkins wasn't satisfied. Yes, Balbuena had confessed. But she wanted her team to keep looking at Morris.

"We're not going to forget about this guy over here," she recalled thinking, "because he was just as involved in this as she was."

Balbuena and Morris shared a special Christmas. He gave her a pierced tongue and a yin-yang necklace; she gave him a tattoo.

On Dec. 30 - 23 days after the taped confession - Carline Balbuena and Jim Morris were arrested and charged with murder and assault on a child causing death. Balbuena also was charged with endangering her 15-month-old daughter, who had been taken into protective custody.

The two would spend the next 22 months in the Sacramento County jail, awaiting trial.

During that time, the story would change again.

Horror at what a child suffered

In November 2007, Linda Hennessy of North Highlands was summoned to the Sacramento County courthouse for jury duty.

In the wood-paneled walls of Department 15, the 57-year-old insurance agent soon learned what case awaited prospective jurors: the homicide of a child.

"My first thought was, 'How could something like that happen to a child?' " she later recalled. "My second thought was, 'Oh, God, please don't choose me.' "

The more Hennessy thought about it, though, the more she believed she could do her duty. On Dec. 3, she officially became Juror No. 1 on the "red jury," the panel that would sit in judgment of Morris. A second 12-member panel, the "blue jury," would

weigh the case against Balbuena.

For six weeks, the red and blue juries would endure graphic testimony and photographs. Presiding over the courtroom was Judge Helena R. Gweon, a Harvard-educated lawyer appointed in September 2006 after more than a decade in the District Attorney's Office.

Balbuena and Morris had been assigned experienced criminal defense attorneys in Greg Foster and Joel Deckler. But both lawyers would have to contend with Deputy District Attorney Robin Shakely, a child homicide specialist known for her meticulous preparation and tenacity in arguing child murder cases.

Shakely, who served for years on the county's Child Death Review Team, has grown increasingly critical of CPS and maintains that social workers are not removing children quickly enough from dangerous homes.

K.C. Balbuena's death was one she thought could have been averted. There had been warnings.

Before Balbuena started leaving her two kids home alone during the day, she had received financial aid from the nonprofit Child Action Inc. for day care in Citrus Heights, where Morris already had enrolled his 3-year-old daughter.

Twice in October 2005, the day care operator reported suspicious injuries to CPS - a bruise and scratches around K.C.'s left ear and eye on Oct. 3, and a severe burn on his right foot on Oct. 24. On the second date, Morris had carried the child into the day care center, his foot wrapped in a bloody sock, the DA's trial brief states.

"He couldn't walk on it. It looked bad. It was charred," Barbara Jimenez, the day care director, testified at trial. Jimenez remembered K.C. as a shy, withdrawn child whose speech impediment made him difficult to understand.

Shakely called both social workers to testify.

The first telephone call to CPS was assigned to emergency response worker Doan Tran, who went to the day care center Oct. 6 to check out the scratches and bruising. Morris had told a teacher that the kids had gotten into some makeup at home.

But when K.C. was asked about the scratches and bruising he told the director and a teacher that "Daddy did it," according to prosecution records and trial testimony. Morris' 3-year-old daughter also had told staff that "my daddy hit him" because K.C. had "pooped in his pants" - a story the little girl retracted when the CPS social worker showed up, the DA's trial brief shows.

Tran, who had 18 years with CPS, examined the boy at the day care center. But the social worker said he saw only a fading scratch by the boy's left ear.

Because he speaks with a deep foreign accent, Tran testified, the day care director helped him interview K.C. When asked if he was able to understand the 3-year-old, Tran replied: "Not really."

Tran said he then went to the apartment for an "unannounced home visit" but, finding no one home, left his card. Balbuena called back the same day and Tran returned to find a "cooperative" mother and a clean apartment.

Tran asked both Balbuena and Morris if they used corporal punishment, alcohol or drugs or had a history of domestic violence. No, no, no, the couple answered. For discipline, Balbuena told Tran she believed in time-outs and taking away privileges, the social worker testified.

And so, the case was closed. It was Tran's only investigation that day, he told the court.

The agency had a second chance. On Oct. 24, CPS was contacted again by the day care center after K.C. arrived with his bloody sock. Morris told teachers that the child had stepped on a barbecue lighter fork, but the center would not accept him and told Morris to seek medical care.

The treating pediatrician found that K.C. had suffered a third-degree burn.

After the day care center's second call, CPS dispatched emergency response investigator Graciela Garcia. Garcia told the court she visited the apartment on Marigold Lane nine times between Oct. 25 and Nov. 10 but never found anyone home. She left her card twice but did not visit Balbuena's and Morris' workplace because, she testified, the day care center did not give her the work address.

Eight days after Garcia's last visit to the apartment, K.C. Balbuena died.

Listening intently to the testimony, two jurors - one "red," one "blue" - saw CPS' role differently.

"I think CPS could've been more persistent," "red" juror Hennessy said after the trial. "I know the system is overburdened, but somebody's got to make more of an effort to save these poor children."

Lisa Carlson of Folsom, 51, who served on Balbuena's "blue" jury, isn't convinced CPS could have done anything more.

"Carline was ditching CPS. She tried to get away from them," said Carlson, who owns an insurance agency. "CPS did the best they could. ... But if a mother doesn't allow them to get in, then what are they going to do?"

As the weeks wore on, Shakely painted a picture of Balbuena as a needy, self-absorbed woman who was "desperately infatuated" with Morris but whose young children were in her way. The prosecutor depicted Morris as an obnoxious freeloader and a hothead who relished dark books, including Stephen King's "Dark Tower" series.

Meanwhile, the defense attorneys portrayed each of their clients as a victim of the other.

Foster, a former public defender with experience in child homicide cases, told jurors that Balbuena agreed to take the fall for Morris to save his daughter, who had been taken into protective custody the day before her confession. But Balbuena changed her mind after learning that Morris had confided to two cellmates that he had brutally assaulted her son, Foster said.

"That was the cold shower that awoke Carline Balbuena," the defense attorney said in his opening statement.

Balbuena took the stand, at one point describing herself as a "stupid saint." She said she worked two jobs "so I could give my kids a good Christmas."

Deckler, who represented Morris, portrayed his client as a man who - despite his "boorish" behavior and pot-smoking habit - "tried, as best he could, to have Ms. Balbuena get her act together." Balbuena confessed to the crime, Deckler said, "because that's what she did."

"This woman is no stupid saint," Deckler said in his closing argument. "What she is is a smart sinner."

By now, Morris and Balbuena would scarcely look at each other in the courtroom.

For jurors, though, the story was coming together.

Convicted, yet they deny blame

Carline Balbuena's jury deliberated 31/ 2 hours. On Jan. 17, she was found guilty of all three counts - first-degree murder, assault on a child causing death and felony child endangerment. She has not been sentenced while a new attorney investigates her claims that she was not adequately represented and deserves a new trial.

James Morris' jury was out for fewer than six hours, finding him guilty Jan. 22 of second-degree murder and assault on a child causing death. On Feb. 21, he was sentenced to 25 years to life.

Family members of both were stunned.

"We're just really shocked," said Morris' father, also called Jim Morris. "Some of the testimony I heard - we just feel like it never should have happened."

At his sentencing, James Morris read a brief statement, calling K.C. a "beautiful child who did not deserve his end." But he wasn't responsible, Morris said.

"To be convicted of K.C.'s death is unimaginable," he said, before being led away in handcuffs.

Balbuena, who recently appeared in court clutching a Bible, now insists she, too, is

innocent. In a three-page handwritten letter to the judge dated March 14, she said she had "made countless mistakes and wrong decisions, the biggest of which was to agree in taking the blame for this crime that I did not commit!

"... I did not hurt my son, and I did not kill my son!"

Juror now alert to child's tears

Balbuena's surviving child has been adopted, and Morris' daughter has gone to live with her biological mother, according to family members.

Juror Linda Hennessy showed up for Morris' sentencing, along with others from the red jury. She now pays closer attention when a child is crying in public, "just to make sure the kid is all right."

Juror Lisa Carlson drove in from Folsom three times for Balbuena's sentencing, but left disappointed as Balbuena was granted time to pursue a new trial.

The detectives couldn't stay away from Department 15, either, filling up the back row at Morris' Feb. 21 sentencing.

From the bench, Judge Gweon read a literary passage and commended them for pursuing justice for the dead.

"We, as a community, have suffered a loss," the judge said.

"... And so we, as a community, mourn the loss of K.C. Balbuena."

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CPS investigation: Imprisoned abusive mother says she has new evidence

By Marjie Lundstrom - mlundstrom@sacbee.com

Published 12:00 am PDT Monday, June 23, 2008

He died in poverty and torment, a little boy buried in a new suit donated by a department store.

Adrian Conway's grave lies in the "Garden of Hope" at Mount Vernon Memorial Park in Fair Oaks, where a small orange Garfield doll sits on the simple marker: "Playing in God's garden."

A dozen years later, the 3-year-old child is still remembered by many in Sacramento and beyond. His 1996 death became a rallying cry in the community and a benchmark for Sacramento County's Child Protective Services, forced to change its policies after numerous warnings to the agency failed to protect him.

So what became of his mother?

Tammy Holycross, who pleaded guilty in 1998 to second-degree murder and torture, is serving her sentence of 23 years, four months at Valley State Prison for Women in Chowchilla. But the 40-year-old woman said recently she has a "new witness" and "new evidence" in her case, according to a letter to The Bee.

Her attorney, Eric Escamilla of Fresno, confirmed that he has newly discovered evidence but plans to appeal her case based primarily on what he called "procedural errors." The attorney said he believes there was a rush to judgment by police, and that her case should have been moved out of Sacramento because of publicity.

Even in state prison, Holycross retains some visibility. She is featured on several prisoner pen-pal Web sites, saying she is a "lonely California woman" seeking a man. Several include provocative pictures of a partially clad blonde alongside a snapshot of a more modestly dressed woman, who more closely resembles the mother photographed after Adrian's murder.

"I am looking for a mature man that's settled, likes to laugh, cuddle & be wild behind closed doors," reads one passage under her name, photo and prisoner identification number. "I had a witness that came forward that can totally clear me ... so we have plenty of time to get to know each other."

On another site - in which she describes herself as "easy-going, open-minded, fun, loving, sincere and family-oriented" - the text states that her lawyer has found "stronger evidense (sic) of a case mess-up to get me out. He said within a year we will be done!"

Holycross' relationship with men was an undercurrent in Adrian's murder investigation. At the time, the young mother reportedly told police she "had something against men," and Adrian became the scapegoat for that hatred, The Bee reported. Holycross then was a pregnant single mother of two older daughters, ages 6 and 11, and 3-year-old Adrian, each by a different father.

Only the boy was physically abused. When Adrian was rushed to the hospital on Jan. 21, 1996, his body had been brutalized. The boy, who weighed 26 pounds, was malnourished and had skull fractures, extensive bruising, numerous cigarette burns, older scarring and marks on his neck, penis and right ankle suggesting he had been tied, the forensic pathologist found.

The police detective who entered the roach-infested home in Del Paso Heights found garbage strewn about the yard and a "terrible" smell in the house that he determined to be fecal matter throughout, including in the kitchen, according to appellate court papers. In the last week of his life, the boy had become violently ill after drinking from a bowl of water he found behind a dripping, rusty toilet, the documents show.

Holycross was well-known to CPS, first in Yolo County and then in Sacramento. She had been on welfare and struggled with drug addiction but, after six months of monitoring her, Sacramento County closed the case in November 1995 when the agency determined the risk to be "moderate," according to Bee news accounts. The boy died two months later.

In her Jan. 10 letter to The Bee, Holycross speaks proudly of her daughters, who she says "know all the truths" and grew up to be "great people." Her older daughter is now the mother of a 2-year-old, while her younger daughter has joined the military, she wrote. A third daughter, born after her arrest, was adopted and turned 12 in March.

Nowhere in the letter does Holycross mention a boy named Adrian.

Her earliest possible date for parole consideration is August 2016.

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CPS criticizes comparisons

By Marjie Lundstrom - mlundstrom@sacbee.com

Published 12:00 am PDT Wednesday, June 25, 2008

The plan was complex, but the idea was simple: Hold California's counties responsible for what happens to kids in their care.

Officials at Sacramento County Child Protective Services, the subject of a five-month Bee investigation published this week maintain it is unfair to compare its results – some of them dismal – with those of other large counties.

But Sacramento Sen. Darrell Steinberg, the chief architect of the Child Welfare System Improvement and Accountability Act, told The Bee that his 2001 legislation was specifically intended to "shine a light on how respective counties are doing in comparison with others."

"Data can be scary, and sometimes it can reveal flaws that some people would rather not have revealed," said Steinberg, the incoming Senate president and a respected leader on children's issues.

Steinberg's groundbreaking legislation as an assemblyman, Assembly Bill 636, holds counties and the state accountable for kids' safety and well-being through uniform standards and goals. The federal government has its own standards and similar measures, with funding tied to improvement.

The Bee, which examined Sacramento CPS in the 12 years since Adrian Conway died, found that the outcomes for Sacramento County kids in several key areas were among the worst in the state. The death of 3-year-old Adrian in 1996 triggered a series of changes within CPS, and the agency's budget has nearly quadrupled since.

But The Bee's analysis of statewide child welfare data shows that, among the state's 20 largest counties based on child population, Sacramento County had the highest rate of kids being abused or neglected again within a year.

Sacramento County also had the state's highest percentage of kids being reunited with their families within a year of being placed in foster care, according to the 20 counties' performance data, compiled by UC Berkeley's Center for Social Services Research (cssr.berkeley.edu). But Sacramento County had the highest percentage of kids coming back into foster care within two years of being reunited – reflecting churn that is double and triple that of other large counties.

"It's a revolving door," said William Grimm, a senior attorney at the Oakland-based National Center for Youth Law.

Sacramento County CPS objects to these county-to-county comparisons, saying that programs and policies differ greatly and could account for discrepancies.

Unlike most states, whose child welfare services are run by a state agency, California has a county-based system. The state Department of Social Services is empowered to set policy and to oversee the individual programs.

A CPS memo responding to The Bee series states that the reporting system that results in the child welfare data was "devised to help counties track their individual performance over time so they know where to strengthen practice and allocate resources."

Steinberg and others disagree.

"This is not and was not intended to be (only) an internal county document that would allow any county to engage in self-improvement," said Steinberg.

The bill's main purpose, he said, was to measure what happens to kids in the county-based systems and hold the agencies publicly accountable. Comparisons are essential, he said, because they help identify "best practices" that can be replicated.

Grimm, whose group also analyzed the county-by-county data – and came under fire for doing so – said he believes "we should be looking at this from the perspective of the child, not the agency.

"Whether the child is in Contra Costa or Sacramento or San Francisco, we should be asking fundamental questions about how we are doing protecting that child – regardless of the accident of geography," he said.

Two days before the Bee's series was published, Sacramento CPS Director Laura Coulthard sent a letter dated June 20 to the agency's "community partners," including agencies that temporarily house abused children, saying that CPS has "made tremendous strides in the past decade." Coulthard wrote that she and her staff "spent hundreds of hours" talking with The Bee, describing "our model programs and our successful efforts to protect children and strengthen families."

Coulthard said in an e-mail to The Bee on Tuesday that she agrees there is "great value in looking at and understanding positive outcomes in other counties."

In fact, she said, staff from other counties have visited Sacramento to review local cases and "identify possible strategies for improvement."

County Supervisor Roberta MacGlashan said she was unaware how badly Sacramento ranked in repeat abuse and foster care re-entry and wants to discuss the data with Lynn Frank, director of the county's Department of Health and Human Services, which oversees CPS.

"This is certainly something to be concerned about and to take a look at," MacGlashan said. "I think you need to compare similar counties."

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CPS investigation: About the journalists

Last Updated 12:09 am PDT Sunday, June 22, 2008

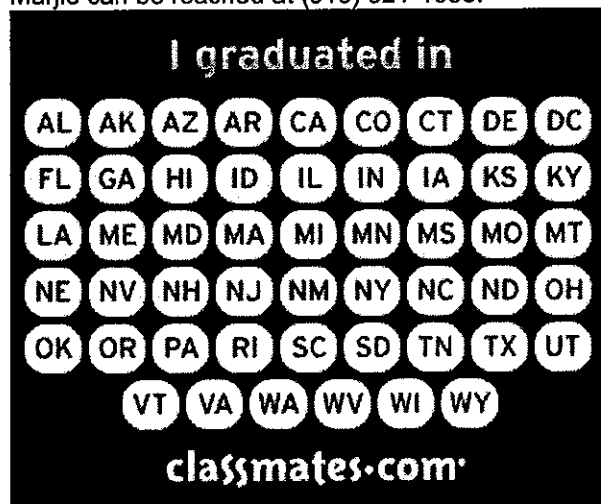
Story appeared in MAIN NEWS section, Page A10



Marjie Lundstrom

Marjie Lundstrom, with co-author Sam Stanton, focused her last series on disabled access lawsuits in California. The series spawned legislation and was honored by the Society of American Business Editors and Writers. For six years, Lundstrom wrote the "About California" column. Her work on child abuse for Gannett News Service received the Pulitzer Prize in 1991.

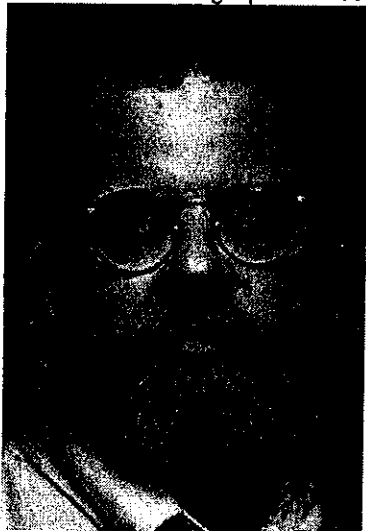
Marjie can be reached at (916) 321-1055.





Autumn Cruz

Autumn Cruz has photographed the Book of Dreams holiday giving project for the last two years. She conceptualized the interactive storytelling for the Balbuena-Morris trial for this series. While at San Jose State, she twice won the student photographer of the year award from the San Francisco Bay Area Press Photographers Association.



Mitchell Brooks

Mitchell Brooks recently began building online Flash animations for sacbee.com. His projects include the primary election map, an explanation of the workings of a nail gun, a review of local farmers markets, a guide to the Sacramento area's public 18-hole golf courses, and an animation updating the progress of The Bee's square-foot garden.

Editor: Amy Pyle

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Lowering the Drop-Out Rate

Rossa Doño
El Observador

The first three hours after school are the hours that adolescents are likely to fall into gangs, sexual and drug activities. For this reason, the YWCA has imple-

mented a credit recovery program for four East Side High Schools for students who need to make-up credits to graduate.

The program is available at James Lick, Overfelt, Yerba Buena and Andrew Hill High Schools. With the East Side Union High Schools receiving the

highest dropout rate in the Santa Clara Valley, this program helps students excel in their education.

"New Options offers students credits towards their education and we offer help with their homework in all subjects," said facilitator Elizabeth Ruiz.

Three hours a day after

school, this program has an hour of credit recovery in the subject the child needs, an hour of homework and an hour of enrichment where the students learn about themselves and their potential decisions.

"We offer them resources," said Ruiz, "We have mentors,

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Students at James Lick High School play the "Human Knot" while learning to communicate and work as a team.

Lowering the Drop- Out Rate

From pg 1



advisors and work with their parents not only to help them academically but as a person with social, learning and personal skills."

With curriculums that teach the students about sexual education and drug prevention, as well as games that teach them to better communicate and work as teams, the students are learning everyday skills needed in the workforce.

"As adolescents, sometimes you make mistakes," said Ruiz, "and this program helps them realize that they can make-up for those mistakes. We are here to encourage and motivate them, to make them realize that they are capable of achieving the goals and dreams that they may have."

Started in 1995 at Overfelt High school, the program began this year through state funding and has been able to expand to four High Schools.

Students seeking to recover credits from failed classes can speak to a site coordinator at the school or contact the YWCA in San Jose for more information.Δ

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Juvenile Justice Concerns

Hilbert Morales, MPH

At a press conference held Friday, Feb. 29, 2008, regarding the

Juvenile Justice System of Santa Clara County, retired social worker Noemi Baiza commented, "Today two of three children in the system are Latino kids." The 'system' is composed of Children's Shelter, Juvenile Hall, Juvenile Court System and the Department of Family & Children's Service, Social Service Agency.

The San Jose Police Department often is involved in the process of taking a child into custody with recent developments establishing alternatives to the custody process being proposed by La Raza Roundtable and supported by Supervisor Blanca Alvarado.

For the past 10 years or so, the Juvenile Justice Committee, with Raul Colunga representing LRRT, has looked into the operations of this 'Juvenile Justice System'. Sylvia Alvarez related the psychological trauma that a child experiences when taken away from their familiar environment of parents, extended family and friends. Ms. Alvarez stated that one single Latina mother told her, "Here, our children are really not our own once they fall into the custody of the juvenile justice system." A major concern is that these kids eventually become totally enmeshed in the system only to learn antisocial behavior and even criminal practices.

One revelation was an allegation that the current authority of the social workers involved is not subject to monitoring. This denies the ability of the community to know just who is responsible and account-

able. Much of this information is kept confidential under the current client privacy policies.

It was obvious that the one agency of this Juvenile Justice system not present was a representative who could speak to the usual and customary practices of those social workers who are responsible for making the judgment call that a child is endangered and must be taken into the foster care program.

Since these are the agents who authorize the taking of a child from its familiar family setting, it seems reasonable to ask Norma Doctor-Sparks, Director, Department of Family and Child Services, Social Services Agency, to inform the community about the legal standards involved and the process which these social service workers use. What is the level of management evaluation and monitoring?

According to Ms. Noemi Baiza the rule that is currently used by social workers is, "If in doubt about that kid's safety, yank it out." Once a child is removed from his/her family setting, is any review or evaluation of that action conducted? It seems that this portion of the Juvenile Justice system needs to become transparent. The local Latino community needs to understand why so many of its kids end up in foster care placement.

Certainly that information can be made available to the concerned public without violation of client information privacy concerns. It seems that the Juvenile Justice Committee has some more work to do. Let's make certain that the concerned Latino community supports that effort. Δ

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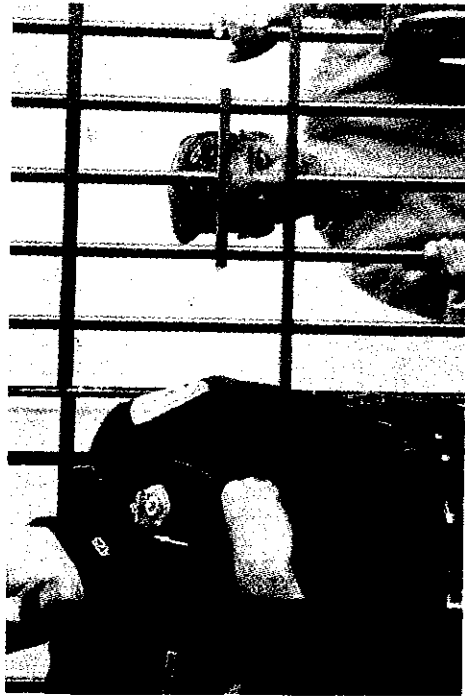
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¡SALVEMOS A LA JUVENTUD!
Save Our Youth

¡SALVEMOS A LA JUVENTUD!



El número de jóvenes en la cárceles sigue en incremento. Ellos necesitan de ayuda.

Por Rosarito Vilal
El Observador

Un reporte del febrero del presente año proporcionado por El Centro Juvenil de Libertad Condicional de la ciudad de San Francisco indica que más del 30% de los jóvenes en este lugar son latinos, el 80% de ellos son hombres y un 20% son mujeres. La mayoría de estos jóvenes encarcelados tienen 16 y 17 años. En San José por ejemplo el 62% de los jóvenes detenidos son latinos.

Como parte de la rehabilitación de estos jóvenes, la organización sin fines de lucro Comunidad San Dimas (CSD)

con sede en San Francisco, busca voluntarios que formen parte de este gran cambio para los jóvenes con problemas que por diferentes motivos terminaron pagando una pena condicional.

"Comunidad San Dimas es un programa espiritual conformado por un grupo de voluntarios que visita los centros de detención juvenil del área de la bahía de San Francisco a fin reducir la recidiva entre adolescentes de alto riesgo", dijo Julio Escobar, Director de CSD.

Urgen voluntarios
El próximo 10 de abril es la fecha límite para sumarse a esta labor social. Es importante que la persona voluntaria complete los tres días de capacitación que serán los sábados 12, 19 y 26 de

abril. Esta persona debe ser mayor de 18 años de edad con ID de California u otro Estado válido.

La tarea consiste en visitar jóvenes en las cárceles una vez a la semana (4 horas por semana), asistir a las reuniones mensuales y es importante que sean bilingües.

"Deseamos ayudarles material y espiritualmente. Intentamos ser una familia para quienes no la tienen y para aquellos que la tienen también. CSD por muchos años se encarga de ayudar a reconocer y a desarrollar sus propias capacidades y talentos mientras que acentúa que tales habilidades son de importancia vital en la comunidad.

¿Por qué cada día hay más jóvenes en problemas?

"Hoy en día es común que ambos padres trabajen y supervisen menos tiempo a sus hijos. Muchos de ellos tienen dos empleos. Los hijos menos supervisados por sus padres tienen más probabilidades en delinquir, pertenecer a una pandilla o consumir drogas", explica Escobar.

CSD apoya a los jóvenes desde 1992, en el año 2004 inició su obra social en San Leandro, en 2006 hizo lo propio en el Centro de Detención Juvenil en San Mateo.

Si desea participar como voluntario debe contactar a Julio Escobar al (415) 244-5594.

Save Our Youth

In a recent study conducted by the City and County of San Francisco Juvenile Probation Department, 30 percent of all youth inmates are Latinos, 80 percent of which are male and 20 percent are female, and the majority are 16 and 17 years-old. In San Jose, 62 percent are Latinos.

In helping to rehabilitation of these youth, the organization Comunidad San Dimas (CSD) or Community San Dimas, is looking for volunteers to become a part of the change that these young adults need to improve their lives.

Comunidad San Dimas is a spiritual program formed by volunteers who visit juvenile halls in the bay area of San Francisco, to reduce the troubles that high-risk youth may get into, said Julio Escobar, Director of CSD. Volunteers Needed

The deadline to become a volunteer to these young adults in need is April 10. It's important that the person volunteering complete three days of training. Saturdays, Apr. 12, 19, and 26; must be 18 years of age; with a valid California ID or other U.S. state; bilinguals wanted.

Volunteers visit the youth in the juvenile halls once a week (four hours a week) and attend monthly meetings.

"We deliver the Word of Our Lord to our young sisters and brothers and share the love of Christ with them. We want to help them, both materially and spiritually. We seek to be like a family for those who are estranged from or do not have one of their own. For those who do have a family, our wish is to support them, both as individuals and as a unit. We desire to function as messengers of hope for a brighter future through faith, education, and employment, helping them to recognize and develop their own abilities and talents, while emphasizing that such skills are of vital importance to our community. We wish to serve as a source of inspiration for churches and the Hispanic community. We want them to be concerned with the needs of our young sisters and brothers. Together we can discover ways to convey God's love for them," says their website.

Escobar said it's common for both parents of a child to work these days, making it harder to supervise and easier for a youth to become delinquent, join a gang, or consume drugs.

If you wish to Volunteer, contact Julio Escobar at (415) 244-5594. A

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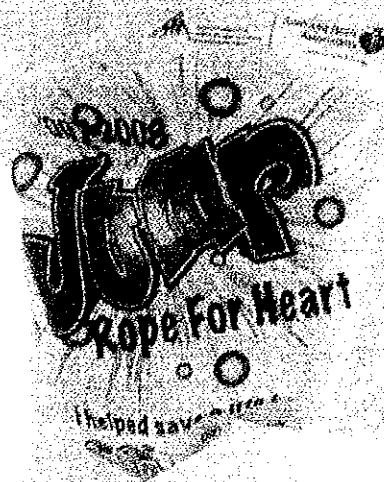
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the Internet

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¡Salta por tu corazón!
"Jump Rope for Heart"

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Photo by K.

Niños del segundo grado del Washington Elementary School saltan por su salud y bienestar.



¡Salta por tu corazón!

Por Rosario Vital - El Observador

"Quiero que mis alumnos estén activos, se ejerciten a diario y prevengan enfermedades que es común en los latinos. Los recursos son limitados pero existe mucho entusiasmo entre mis estudiantes", dijo Claudia Tagimara, maestra del Segundo Grado de la Escuela Primaria de Washington en San José.

Esta escuela cuyo 90% de estudiantes son latinos participa por segundo año consecutivo en el programa nacional "Salta la Cuerda por tu corazón" el cual es promovido por la Asociación Americana del Corazón.

Combinar actividades físicas en la escuela es un elemento básico para mantener a niños saludables. "Los niños son el futuro de este país y queremos que sean una comunidad activa y sana. Al mismo tiempo estamos promoviendo a que niños junten dinero para apoyar a programas de ayuda a personas que sufren de ataque al corazón o derrame cerebral", dijo Carme Sánchez, representante de la Asociación Americana del Corazón.

Sánchez informó a El Observador que unen esfuerzos con 93 escuelas primarias y esto ha tenido mucho éxito.

Juntan dinero para una noble causa

Parte del programa "Jump Rope for Heart" consiste en que los niños reúnan fondos para contribuir a programas que tratan a pacientes con problemas cardíacos en los hospitales de Stanford, Children Hospital de Oakland, Universidad de Berkeley y San Francisco.

El año pasado Joanna Borraya

alumna ahora del 2do. Grado de Primaria de la Escuela Primaria Washington no solo brincó la cuerda sino brincó de alegría al ser reconocida como la estudiante que más dinero reunió para esta sana causa. Joanna reunió \$1,002 y esto fue posible gracias a su trabajo y compromiso al aceptar ayudar a otros. "Joanna es un ejemplo de estudiantes que contribuyen al bienestar de la familia, gracias al apoyo de estudiantes como ella logramos recibir algunos elementos deportivos", dijo Tagimara.

La Asociación Americana del Corazón informa que el tipo de Diabetes II se está incrementando en los niños. Si la tendencia actual continúa, adolescentes con diabetes tipo II tendrán problemas al corazón a comienzos de los 20 o 40 años de edad.

Un serie de estudios han demostrado que el aumento de actividad física está relacionado con un buen rendimiento escolar. Los niños con sobrepeso en la niñez se han duplicado entre 1980 y 2000. Los niños con sobrepeso de tres a cinco adolescentes de 40 años en sobrepeso o en riesgo de convertirse en sobrepeso.

Las enfermedades cardiovasculares es la segunda causa de muerte en los niños mayores de 15.

Para que estos programas continúen, la asociación y la escuela lanzará el próximo 19 de mayo una festividad para recaudar fondos. Si desea colaborar con la escuela puede en forma de donación como agua, equipos deportivos o lo que sea que desee voluntariamente. Puede contactar a (408) 933-3626 o visite www.americanheart.org/jump.

"Jump Rope for Heart"

By Rosario Vital - El Observador

"I want my students to be active, exercising daily and preventing diseases that are common in Latinos. Research is limited but there's a lot of enthusiasm in my students," said Claudia Tagimara, Second Grade teacher of Washington Elementary in San Jose.

This school, where 90 percent of the students are Latinos, participated in "Jump Rope for Heart," a national program sponsored by the American Heart Association.

Combining physical activities in schools is a basic element in maintaining healthy kids. "The children are the future of this country and we want them to be an active and healthy community. At the same time we are encouraging the kids to get donations to help people who suffer from heart attacks or strokes," said Carme Sanchez, representative for the American Heart Association.

Sánchez told El Observador, 93 elementary schools have joined forces and been really successful.

Donations for a Noble Cause

Part of the program "Jump Rope for Heart" consists of the kids getting donations for programs that treat patients with heart problems in Stanford Hospital, Oakland's Children's Hospital, Universities of Berkeley and San Francisco.

Last year Joanna Borraya, who is now in the second grade at Washington Elementary, not only jumped rope but jumped for joy as she was recognized as the students to acquire the most funds for this cause, raising \$1,002 in donations.

"Joanna is an example of a student who contributes to the well being of a family, thanks to students like her we were received sports supplies," Tagimara said.

The American Heart Association informed that Type II Diabetes is increasing in children and if this trend continues, adolescents with Type II Diabetes will have heart problems by the age of 20 or 40 years of age.

A series of studies has shown that increase in physical activities is related to good grades.

Overweight cases in children have tripled between 1980 and 2000. More than three out of 10 adolescents are overweight or at risk of being overweight.

Cardiovascular diseases is the second cause of death in children younger than 15.

For these programs to continue and due to budget cuts, the association and the school will host an event on May 19 to get more donations. If you wish to donate anything to these schools, you may contact them at (408) 535-6261 or visit el site www.americanheart.org/jump.

Getting A Head Start: 900 Kindergartners Enter EVC

SAN JOSE, Calif.

On Thursday, April 24, the Evergreen Valley College campus, welcomed 900 kindergartners, 60 percent of whom are Latino, from the Alum Rock School District for a half-day of learning, exploration, and fun.

The gap in math and reading scores between Latino children and their counterparts, which begins as early as kindergarten and persists

results in a decreasing percentage of Latinos at each stage of the education pipeline.

Evergreen Valley College is determined to buck that trend by exposing Latino children to the world of possibilities that a college education can bring them.

Dr. David Wain Coon, President of Evergreen Valley College, says, "Exposing our youth early to the wonders of education is so impor-

tant it is often too late."

EVC has been working on bold initiatives to open the doors to education for English Language Learners. "Of the 9300 students at Alum Rock's 20 elementary schools, 77 percent are Latino. Many of these students will feed into the East San Jose high schools. Our hope is that they will eventually enroll in our college or other colleges, to create better futures for themselves and their



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Manténgalos ocupados

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*Obra de teatro enseña
cómo defenderse del ICE*

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PEOPLE ASK FOR MORE SIDEWALKS IN EPA

Keep Them Busy

by Rosario Vital
El Observador

The dream of a young adolescent in a Los Altos High School has become a reality. Akash Nigam (14) had the big vision of putting together a soccer camp for middle schoolers. Starting with 30 participants, this year the number has increased to 105, making it a successful camp.

"This is an example of how the community unites to create space and opportunities for others. We looked for young kids to participate and at first there were only a few, but by the second day we had 100 kids after those that were registered brought their friends," said the President of Mesa de la Comunidad, Oscar Garcia.

Akash is a passionate soccer player, who worried about the lack of possibilities for young soccer players in lower income families, thus bringing together his love for soccer and care for the community.

"I'm happy to create activities, to see a smile on the kids faces," said Akash during the award ceremony on July 3 at Bubb Elementary School.

"It's a very productive event for our families, my son was busy part of the afternoon and had a good time. This is important for the families that don't have extra money, but with a \$5 donation are able to keep our kids busy," said Maria Chavez.

Far from Gangs, T.V and Electronic Games

"All kids and adolescents are at risk when at home. The fact that their parents are at work all day and kids are exposed to television and video games, and may be alone part of the time, creates problems among young adolescents, frustrating them, which results in them joining a gang," said Marco Garcia, a Mountain View Police Officer and founder of programs for at-risk kids.

"Twenty percent of commercials on television are about junk food. One hour of television makes kids gain an extra 167 calories. Can you imagine a child sitting for five hours in front of the T.V., the internet or video games. It's important that kids be physically active," said Maria Alvarez from Common Sense Media.

An Ideal Camp

In the "Kick, Lead and Dream" Camp, kids exercise by playing scrimmage games and developing a healthy competitive environment. Perfectly integrated in the program is a motivational speaker aimed at explaining to the kids their endless possibilities and keeping away from bad influences such as gangs.

Mountain View Police are Friends in the Community

"Our community is our friend and we are here to serve and contribute in different social causes," said the Mountain View Chief of Police, Scott S.G. Vermeer.

The police of this city also formed part of this program, donating their time in the entertainment, talks and security. This sports camp was possible due to the support from the Mountain View League of Activities, The Mountain View Police Activities League, and Mesa de la Comunidad. This camp is a model of good summer camps that families of other cities could follow.Δ

Manténgalos ocupados

Por Rosario Vital - El Observador

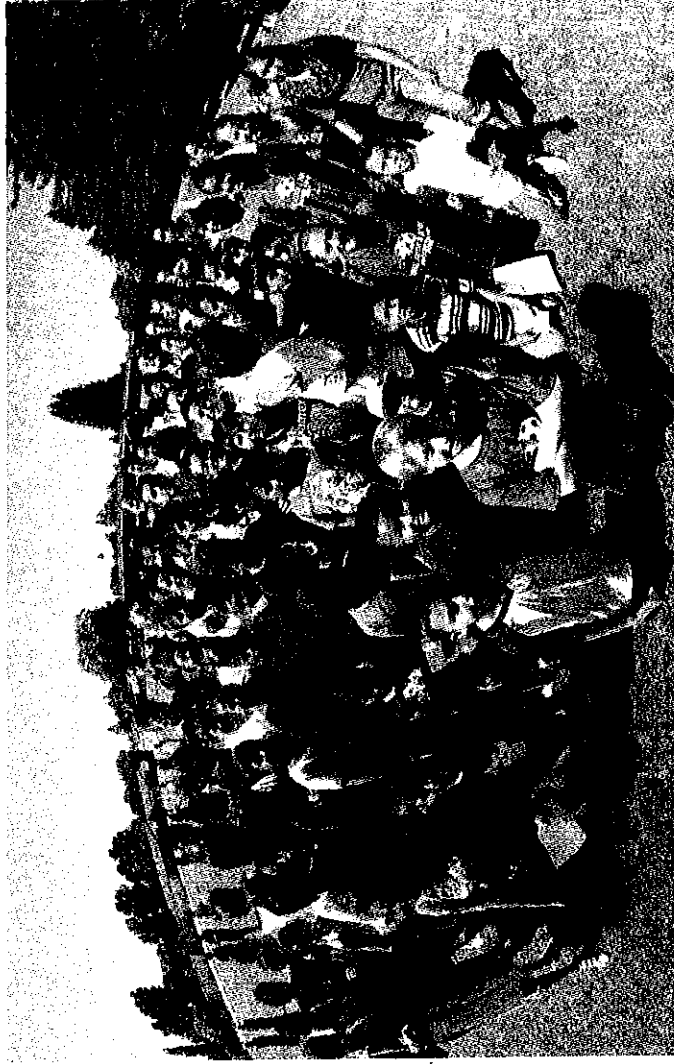
El sueño de un joven adolescente de la escuela secundaria de Los Altos, Akash Nigam se hizo realidad. El año pasado tuvo una gran visión, al desarrollar un campamento de fútbol para menores. En ese entonces el número de participantes fue de 30, este año el número de participación se incrementó a 105, haciendo de esto un campamento exitoso.

"Esto es un ejemplo de ver cómo la comunidad se une para crear espacios y oportunidades a otros. Nosotros buscamos a los menores

para que participen, el primer día llegaron unos cuantos, al segundo día se completaron a 100 con la llegada de más amigos de los inscritos", dijo el Presidente de Mesa de la Comunidad, Oscar García.

Akash es un apasionado por el fútbol, pero al mismo tiempo se preocupó en dar una oportunidad a los niños que tienen menos posibilidades económicas. Dos elementos que ha sabido combinar: su labor comunitaria y pasión por el fútbol.

"Me siento orgulloso de crear actividades, de ver una sonrisa en todos los pequeños y otros jóvenes como yo", dijo Akash durante la ceremonia



Niños de las escuelas de Castro, Crittenden y Graham de la ciudad de Mountain View se beneficiaron del programa "Kick, Lead and Dream".

de clausura que tuvo lugar el pasado 3 de julio en la escuela primaria de Bubb.

"Es un evento muy productivo para nuestras familias, mi hijo estuvo ocupado parte de la tarde y la pasó muy bien. Esto es importante para familias que no tenemos recursos y que con un costo simbólico de \$5 mantuvimos ocupados a nuestros hijos", dijo María Chávez.

Lejos la tv y juegos electrónicos

"Cualquier niño o joven adolescente se encuentra en riesgo aún esté en casa. El hecho que los padres estén todo el día en su trabajo y los niños expuestos a la televisión y los juegos de video o la mayor parte del tiempo solos, crean problemas entre los menores quienes llegan en un momento a estar desorientados y con tendencia a caer en pandillas", dice el Oficial de la Policía de Mtn. View y fundador de programas de ayuda para

niños de alto riesgo, Marco García.

"El 20% de los comerciales que transmite la TV en español es de comida chatarra. Una hora en la televisión hace que los niños ganen 167 calorías. ¿Se imaginan un niño sentado por 5 horas frente a la tv, el internet o a los juegos electrónicos? Es importante que los niños hagan actividades físicas?", dijo María Álvarez de la organización Common Sense Media.

Campamento ideal

En el campamento llamado "Kick, Lead and Dream" los niños se ejercitaron y tuvieron juegos en equipos separados, lo que fomenta un clima de sana competencia. Perfectamente integrado en el programa de fútbol había un orador invitado del programa destinado a proporcionar la motivación y fomentar el desarrollo de habilidades para la vida que ayudará a desviar de malas influencias como las pandillas.

Policía de Mtn. View amigos de su comunidad

"Nuestra comunidad es amiga y estamos aquí para servir y contribuir en diferentes causas sociales", dijo el jefe de la Policía de Mtn. View, Scott S.G. Vermeer.

Los policías de esta ciudad también formaron parte de este programa, donando su tiempo en las entrenamientos, charlas y seguridad. Este campamento deportivo fue posible por La Liga de Actividades de la Policía de Mountain View(MVPAL), El Club de Fútbol de Los Altos y Mtn. View. (MVLA), Mesa de la Comunidad. Esto es un modelo de campamento de verano que familias de otras ciudades podría seguir cuando no tienen recursos económicos.

*(Read the English version online
www.el-observador.com)* Δ

