

CPS investigation: Abuse case overwhelmed novice social worker

Sacramento Bee (California)

June 22, 2008 Sunday

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Distributed by McClatchy-Tribune Business News

Section: STATE AND REGIONAL NEWS

Length: 1112 words

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Body

Jun. 22--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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Load-Date: June 22, 2008

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