

FOUND!

SMOKING GUNS DOCUMENTING HOW CHILD PROTECTION SYSTEM ORGANIZED CRIME METHODS AND PROCEDURES ARE INTEGRATED INTO JUVENILE AND FAMILY COURTS THROUGH JUDGES' BENCHGUIDES AND BENCHBOOKS

TO DOWNLOAD FULL PDF FILE COPIES OF SOURCE 1 AND SOURCE 2 SEE LINKS AT <http://www.thesociologycenter.com/slavetrade.html>

SOURCE 1

**CALIFORNIA JUDGES BENCHGUIDES
BENCHGUIDE 200
Juvenile Dependency Initial or Detention Hearing
2004
Administrative Office of the Courts
Education Division
Center for Judicial Education and Research**

[NOTE: The following text was retyped from a downloaded PDF document which apparently had disabled text block copy. Any differences between the original text and the retyped text below is unintentional. James Roger Brown]

Page 100-13 CALIFORNIA JUDGES BENCHGUIDES: BENCHGUIDE 200: Juvenile Dependency Initial or Detention Hearing

"JUDICIAL TIP: Failure to make this finding may cause permanent loss of **federal funding** for foster care. See discussion of other required findings in §100.36. The court may make this a temporary finding pending the continued detention hearing."

Page 100-38 CALIFORNIA JUDGES BENCHGUIDES: BENCHGUIDE 200

"JUDICIAL TIP:

For a county to be eligible for Title IV-E **federal foster care funding**, the judge must have made specified reasonable efforts findings. See 45 CFR § 1356.21(b)(2)(ii). Therefore, it is strongly advised that the court find that "reasonable efforts to prevent removal were made" in a situation in which it might previously have found that the failure to make efforts was reasonable or that reasonable efforts were excused. If the court determines that DSS's concern for the child's safety was a valid basis for not providing services to prevent or eliminate the need for removal, it may find that the level of effort was reasonable, and should thus make a

finding that reasonable efforts were made.

Some judges require DSS workers to file a separate declaration of reasonable efforts at each stage of the proceedings. However, in many counties, the social worker's statement of efforts is included within the normal DSS reports.

If the court orders the child detained, the court must also make the following findings in order **to ensure eligibility for Title IV-E funding**:

Continuance in the home of the parent or guardian would be contrary to the child's welfare. Welf & I C §319(b); Cal Rules of Ct 1445(a)(2), 1446(a)(2). See also 42 USC §672(a)(1).

Temporary placement and care are vested with the child welfare agency pending disposition or further order fo the court. Welf & I C §319(e); Cal Rules of Ct 1446(d). See also 42 USC §672(a)(2).”

SOURCE 2

RESOURCE GUIDELINES

Improving Court Practice in Child Abuse & Neglect Cases

Authored by the Publication Development Committee
Victims of Child Abuse Project
Honorable David E. Grossmann, Chairman
Spring 1995

National Council of Juvenile and Family Court Judges
Louis W. McHardy, Executive Director
University of Nevada, Reno

Approved by National Council of Juvenile and Family Court Judges
Officers and Board of Trustees
January 1995

<http://www.ncjfcj.org/images/stories/dept/ppcd/pdf/resguide.pdf>

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B. Purpose of Guidelines

The purpose of these resource guidelines is to set forth the essential elements of properly conducted court hearings. The guidelines describe the requirements of juvenile and family courts in fulfilling the role now placed upon them by federal and state laws. These guidelines also describe how court calendars can be efficiently managed to achieve efficiency and avoid delays; explain the court staffing and organization necessary to make the judicial process run smoothly; and clarify costs

associated with such reforms. **These guidelines are meant to influence future administrative and funding decisions concerning juvenile and family courts.** They are intended to help correct the gaping discrepancies that presently exist between legislative demands and judicial resources for child abuse and neglect cases.

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G. The Court's Written Findings of Fact and Conclusions of Law at the Preliminary Protective Hearing Should:

- Be written in easily understandable language which allows the parents and all parties to fully understand the court's order.

If child is placed outside the home:

- Describe who is to have custody and where child is to be placed;
- Specify why continuation of child in the home would be contrary to the child's welfare (**as required to be eligible for federal matching funds**); **[Red text emphasis added. JRB]**
- Specify whether reasonable efforts have been made to prevent placement (including a brief description of what services, if any, were provided and why placement is necessary);
- Specify the terms of visitation.

Whether or not the child is returned home:

- Provide further directions to the parties such as those governing future parental conduct and any agency services to the child and parent agreed upon prior to adjudication.
- Set date and time of the next hearing.

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The court's written findings of fact and conclusions of law at the preliminary protective hearing should:

- Be written in easily understandable language which allows the parents and all parties to fully understand the court's order.

If child is placed outside the home:

- Describe who is to have custody and where child is to be placed;
- Specify why continuation of child in the home would be contrary to the child's welfare (**as required to be eligible for federal matching funds**); **[Red text emphasis added. JRB]**
- Specify whether reasonable efforts have been made to prevent placement (including a brief description of what services, if any, were provided and why placement is necessary);
- Specify the terms of visitation.

Whether or not the child is returned home:

- Provide further directions to the parties such as those governing future parental conduct and any agency services to the child and parent agreed upon prior to adjudication.
- Set date and time of next hearing.

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The court's written findings of fact and conclusions of law at the preliminary protective hearing should:

Be written in easily understandable language which allows the parents and all parties to fully understand the court's order.

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- Describe who is to have custody and where child is to be placed;
- Specify why continuation of child in the home would be contrary to the child's welfare (**as required to be eligible for federal matching funds**); **[Red text emphasis added. JRB]**
- Specify whether reasonable efforts have been made to prevent placement (including a brief description of what services, if any, were provided and why placement is necessary);
- Specify the terms of visitation.

Whether or not the child is returned home:

- Provide further directions to the parties such as those governing future parental conduct and any agency services to the child and parent agreed upon prior to adjudication.
- Set date and time of next hearing.

APPENDIX C, Page 139

Improving Implementation of the Federal Adoption Assistance and Child Welfare Act of 1980

By Judge Leonard P. Edwards

(Paragraph 2)

This article examines the implementation of the Act and the reasons why it is not working as well as it might. It offers technical assistance to judges, court administrators, social service agencies, attorneys and other interested persons regarding the Act's implementation. It focuses upon the judicial oversight of abused and neglected children when they are removed from parental custody. The premises of this paper are that many social service agencies do not effectively deliver preventive and reunification services to families, that juvenile court oversight of social service delivery has been ineffective or nonexistent, and that many juvenile courts do not ensure that children in out-of-home care attain a permanent home in a timely fashion. **As a result, many state child welfare systems do not serve children and families well, and most states risk**

losing federal funding for social services. [Red text emphasis added. JRB] This paper concludes with recommendations on how a strong judiciary and specialized training can improve implementation of the Act and ensure that it operates as Congress intended.

Appendix C, Page 141

The major tenets of the Act and of the state implementing legislation are as follows:

1. To qualify for federal funding, the state must prepare a state plan describing the services it will provide to prevent children's removal from parental custody and to reunite child and parents after removal. The plan must include a provision that the social service agency will make foster care maintenance payments in accordance with section 472 of the Act.

Note 13, page 158

13. Congress anticipated this response from the courts, but concluded that the judiciary would take the newly-created responsibility seriously. Child Welfare Act of 1980, Pub. L. No. 96-272, Legislative History (U.S. Congress, Washington D.C.) 1980, at 1465. The committee is aware of allegations that the judicial determination requirement can become a mere pro forma exercise in paper shuffling to obtain federal funding. While this could occur in some instances, the committee is unwilling to accept as a general proposition that the judiciaries of the states would so lightly treat a responsibility placed upon them by federal statute for the protection of children. *Id.*

Appendix C, Page 142

The committee feels the elimination of the requirement for judicial determinations would be directly contrary to the purposes of the legislation in that it would move in the direction of providing additional incentives for States to choose foster care placements over the more difficult task of returning children to their own homes or placing them in adoptive homes. Moreover, such a change would eliminate an important safeguard against inappropriate agency action.

The federal government's role under the Act is to ensure compliance by auditing court records. **Where the social service agency complies with the Act and the court records compliance with the correct findings and orders, the federal government will not penalize the state by demanding that federal funding be returned. If, however, the court records do not reflect compliance with the federal law, the state will be required to return some of the federal monies that have been provided. [Red text emphasis added. JRB]**

Appendix C, Page 143

An attorney representing children in dependency actions in Pittsburgh, Pa. wrote of her inability to meet the demands of increasing caseloads:

This afternoon I am in the midst of a paper mountain, trying to acquire information about the 120 plus children I will represent in over 55 hearings this Friday before my county's Juvenile Court. I have been a lawyer with Child

Advocacy for over ten years, have seen caseloads triple and funding decrease, so that my four full-time colleagues and myself have responsibility for more than 1100 cases each.

[NOTE: Where are the billions in Child Protection System federal funding these people generate going? JRB]

[IMPORTANT NOTE: The following citation may explain the source of the judicial instructions on how to tailor court orders and rulings to maximize child protection system federal funds written into the CALIFORNIA JUDGES BENCHGUIDES: BENCHGUIDE 200: Juvenile Dependency Initial or Detention Hearing.]

Appendix C, Page 148-149

California is currently experimenting with a training model designed to address deficiencies in the federal Act's implementation. The State Department of Social Services has agreed to include funding for judicial training in its budget. Leaders from the judiciary and social services agencies will hire and train several persons to serve as local experts in implementing the Act. These persons will work under the auspices of the California Judicial Council. They will visit every judicial officer in the state who hears juvenile dependency cases to conduct an on-site training session regarding the Act. The training will include the courtroom clerk, the court officer from the social service agency, and anyone else critical to the implementation of the law. The trainers will explain the federal Act, its philosophy and main provisions, the necessity for judicial oversight of social service delivery, and the ways in which court orders must be to offer technical assistance to the court and staff concerning all aspects of the Act's implementation. To overcome possible reluctance from judges to participate, the Judicial Council will introduce and promote this training. If necessary, other judges will accompany the trainers. A unique aspect of this training is that it will be financed principally by federal funding provided under federal regulations which permit state and local training for foster care and adoption assistance under Title IV-E. Such training will also be extended to attorneys and all others who appear on behalf of children, parents, and the social service agency. Attorneys who appear in these proceedings must understand the Act and address the issues on which the court must make findings pursuant to it. Court Appointed Special Advocates (CASAs) and guardians ad litem also must be trained in the law so they can assist the court by commenting on those issues in their court reports.

Correct implementation of the Act is vitally important to all participants in dependency cases. If the court fails to make or incorrectly records the required findings, the social service agency could lose valuable resources and children and families may suffer unnecessarily lengthy or needless separations. One means to provide education for all members of the legal and social service community is to have a local or statewide conference devoted to fully implementing the Act. California has developed a useful model with its annual Beyond the Bench Conference. Co-sponsored by the Juvenile Court Judges of California, the State Department of Social Services, and the County Welfare Directors, this conference brings together all major participants

in the dependency process for two days each year. Participants help plan the conference agenda so that issues are examined on an interdisciplinary basis. The National Council of Juvenile and Family Court Judges has participated in each conference, bringing both technical assistance and nationally known speakers to enrich the proceedings. The result has been an improved child welfare system in which the participants have a better working relationship with one another, a more complete appreciation of the federal law, and an understanding of each participant's role.

Appendix C, Page 158, Note 15

15. Two commentators summarize the barriers facing judicial oversight:

[T]he authority of judges in these matters is often limited; they do not have the power to order the agency to provide services to an individual. In some states, the courts will make a positive "reasonable efforts" determination regardless of agency efforts in order to ensure federal funding. Judges are not trained in matters over which the juvenile court has jurisdiction and, because of rotation schedules, remain in the assignment for a short period of time. Consequently, they do not acquire the experience needed to handle these sensitive cases. While judges in some localities make a good faith effort to determine whether adequate services have been offered to the family, in many localities a positive finding is merely a matter of checking a box on a preprinted form.

Susan Goodman and Joan Hurley, *Reasonable Efforts: Who Decides What's Reasonable?* (U.S. Department of Health and Human Services, Washington, D.C.) 1993, at 8.

Appendix C, Note 110, Page 162

110. In many jurisdictions the trial judge must merely check a box on a preprinted court form to indicate that reasonable efforts were provided in the case. Shotton, *supra* end.

3. In some other jurisdictions the court order forms simply include a preprinted statement that reasonable efforts were made, thus making the finding possible without the judge's even checking a box. *Id.*, at 227. In some states, courts and agencies have taken a cynical approach, seeking to assure receipt of federal funding without the court taking a meaningful look at reasonable efforts. In such states, words indicating the agency has made reasonable efforts are preprinted into court order forms used when removal of a child is authorized, and laws are structured so a judge cannot authorize a foster placement without a positive finding of reasonable efforts. Hardin, *supra* end. 7, at 54