



**Commission On Child Protection**  
*State of Connecticut*

*Office of the Chief Child Protection Attorney*

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**Case Examples of Inaccurate Safety Assessments and Inadequate Efforts to Prevent Removal Provided by Child Protection Attorneys to CCPA**

**UNNECESSARY REMOVALS**

**BRIDGEPORT:**

**Cultural Incompetence:**

DCF Social Worker conducted an unannounced home visit at the home of recent Eastern European immigrants, none of whom speak English. The worker knew this, however, did not bring a translator to the visit. When no one answered the door and the children were heard inside, the worker called the police who arrive at the scene and break into the house. Inside, the paternal grandfather is present with the children and the mother, who appears under the influence of alcohol. The worker notes that the paternal grandfather, after the police broke down the family's door, just sat there. According to the LINK narratives, the paternal grandfather had been approved as the caretaker while the mother attended treatment. However, the worker informed the police that he had not been approved and a 96 hour hold is taken.

**Inadequate Investigation:**

There was a case last month involving children between the ages of 8 and 13 years, who had been living with their mother at the maternal grandmother's home. The mother was ill and passed away in early summer. Maternal grandmother made allegations that father had a substance abuse problem and had little or no contact with the children. DCF invoked a 96 hour hold and requested an OTC. When interviewed by their attorney, the children reported that they saw their father every weekend and wanted to live with him. Father submitted to a drug hair test which was negative for illicit substances. The children have since been placed with their father. It would appear that there was never an issue of imminent risk which would necessitate invoking a 96 hour hold and petition for OTC especially since the OTC was requested several months after mother passed away.

**HARTFORD:**

**Lack of Appropriate Placement:**

Eighteen year old Mom with 2 year old child committed to DCF with plan for CHAPP program. Foster home inappropriate, locking mother and child out if 5 minutes late; one time because

Mom took child to CCMC. Mom doing her best to care for child and stay with appropriate relatives when locked out. She proposes relatives for placement when foster home disrupts.

DCF files for OTC with misinformation regarding baby's condition and reason for visits to CCMC in Affidavit. The mother's Parent Aide had no concerns regarding her care of baby, but did share concerns regarding foster mom. DCF tells mom that they will now be seeking to terminate her parental rights since this is the third removal.

A trial is scheduled at CPS, although it is confirmed by CCMC that child had no serious medical or abuse issues. DCF appeared at trial and offered placement at St. Agnes on 8/31 and agreed to temporarily place baby with Mom at maternal great aunt's by 8/20 at 5:00 p.m. so long as no CPS or Criminal history and walk through approved. If Aunt not approved, DCF agrees Mom will have unsupervised visitation until placed at St. Agnes on 8/31./2010. DCF also agreed to withdraw its motion to modify to commitment and allow 9 months protective supervision. Based upon these facts and DCF's position on eve of trial it appears that a lack of appropriate DCF placement for the mother and child and failure to swiftly act on mother's proposed relatives were the primary reasons the baby was separated from his mother.

Cultural Incompetence:

Case involves recent immigrants from Ghana. The 15 year old daughter disciplined her younger (4 yr old) sibling, leaving a mark. There is also a 3 yr old in the home. Mother was, at the time of removal eight and one half months pregnant. DCF removes the three and four year old children from their parents and leaves the 15 year old, who also has a pending delinquency charge for fighting in school, in the home.

At the 10-day Preliminary Hearing, the parents agreed to sustain the OTC on the representation by DCF that they would provide a service in the home that worked with new immigrants, Ghanaians specifically, to assist the family and address the 15 year olds' difficulties with assimilation. DCF represents that if the parents cooperate, the children could be home in 4 weeks.

The parents followed through with the service and the 15 year old returned to her grandmother's care in Ghana. There were no allegations of domestic violence between the parents or that the parents employed physical discipline with their children. DCF and the court have refused to send these two young babies home. They stayed together in a safe home for over a month, but now they are separated and in their fourth foster home. mother delivered the baby this weekend and DCF has instructed the hospital not to let the parents leave with the baby.

Failure to Utilize Community Resource:

DCF had been involved with family since May 2010 when mother had anxiety attack and was hospitalized briefly. While DCF is monitoring the case, Mother has another anxiety attack, takes medication incorrectly and DCF is called to the home. Mother is able to talk to social worker and when asked if she has anyone to care for her child she puts forth a friend who arrives at the house about the same time as the ambulance that was summoned by the social worker. DCF takes a 96 hour hold and informs the friend that she cannot take the child because there is not enough time to do the necessary checks. The child sits in the DCF office from 10a.m until 6p.m. The hospital determines that mother can be released that day, but when she calls DCF for her child, she is told they'll see her at the 10 day hearing. An OTC trial was scheduled, but an agreement is reached whereby DCF represents that it will complete checks on the mother's friend, conduct a walk through and file a status report with the court in a few days. If the friend is acceptable, the parties agree that the child's attorney will file a motion to vest the OTC in mother's friend. Thereafter, the Program Supervisor informs the mother's attorney that he would never approve placement of the child with the friend because she is just a neighbor and she has 2 children of her own. These

facts were known at the time the Department entered into the agreement to evaluate the friend and induced mother to agree to sustain the OTC and forego a trial.

*Failure to Utilize Appropriate Relative Resource:*

OTC was taken on mother's two children. The older child was living with the Grandmother who was previously licensed as a relative caregiver. Her license had expired approximately 2 months prior. DCF removed the child from grandmother, although the child was not in imminent physical danger with her, and told her they would return the following day. Six days later the child had not been returned to her and DCF reported that they have to complete the licensing process, in spite of the fact that policy permits placement with a relative for up to 90 days pending licensing if there is no criminal record, no substance abuse and no DCF history, criteria which DCF knew the grandmother passed.

NEW BRITAIN

*Arbitrary Change in Risk Assessment:*

The case involved two half siblings. Mother has a long history of alcohol abuse, domestic violence and unresolved mental health issues. The first child is 10 years old and lives with his father and Paternal Grandmother. Dad has been incarcerated a couple of times, but the child has been raised for the majority of his life by his father and grandmother. Mom and dad have always worked well together with no resort to Family Court and no DCF intervention at any point regarding this child. Both parents report that the other is good with homework, discipline and by all accounts this is a delightful boy.

Mom had a "melt down" this Summer at which point DCF intervened and removed the infant that was in her care. Dad was incarcerated at the time of the removal (estimated release date is this week) and his son, who was living with the Paternal Grandmother, was also removed from the grandmother's care. At the preliminary hearing DCF claimed that Dad's impending release from prison was the reason for the OTC, although Dad is not a violent criminal and DCF LINK narratives reflect that it was historically an acceptable family plan for the child to live with his father and grandmother and be cared for by his Grandmother. DCF insists that the Grandmother become licensed in order for the child to be returned and she and the father agree. As a result of the licensing process, DCF is expecting father to live elsewhere upon his release.

NEW HAVEN:

*Removal of a sibling NOT similarly situated:*

Twin babies are removed based on one being identified as having special needs and the parents appearing overwhelmed with his care. The other twin was born perfectly healthy and there were no allegations of neglect in relation to his care. The Assistant Attorney General acknowledged this at the preliminary hearing and the social worker intimated that the immediate return the healthy child could be secured in exchange for the parents' agreement to sustain the OTC on the child with specialized needs. A trial on the neglect petition is pending and DCF is not providing timely services to assist the parents.

STAMFORD:

*Removal of siblings NOT similarly situated:*

The youngest of three children was left in the care of the child's aunt. The aunt left her sleeping on a bed. A plastic bag was also on the bed. The baby suffocated. Mom arrived and carried the baby in the street calling for help in her native language - she didn't speak English. DCF

removed the mother's other two children. I came on to the case about two years later when DCF was about to TPR. The foster home wanted to adopt. One of the children had asthma and needed treatments. Foster mother refused to send the pump with the child for visits with the mother. On one occasion - just by dumb luck - as I drove to the entrance of the hospital I found the mother carrying the child on her way to the emergency room because she needed asthma treatment and had no pump. During this time DCF still wanted to have the kids stay with the foster mother.

#### WATERBURY:

##### *Inaccurate Risk Assessment:*

A referral came in regarding an incident of domestic violence in the home. Seven weeks later while the 12 year old child was staying with a friend, DCF removed him and placed him in foster care. DCF acknowledged that there were no concerns with the friend's house. Judge found no imminent harm and vacated the OTC.

#### WATERFORD:

##### *Removal of siblings NOT similarly situated*

I would say that in Norwich it is the total lack of consistency that is the most troubling. I had a case with 5 kids; the problem was with the oldest, but all 5 were removed. Services were put in place and we sustained the OTC with a review scheduled in 2 weeks. The oldest was committed by agreement. In 2 weeks, two of the 4 children that were unnecessarily removed were returned. We agreed to wait 1 month for next two to return, even though it was clear that there was no risk.

At the one month mark DCF only agree to send one child home, so we scheduled a trial. The DCF supervisor said they were keeping that child because they needed leverage!

#### WILLIMANTIC:

##### *DCF's Failure to Honor Safety Plan:*

Mom signed a Safety Plan agreeing to leave children with Maternal Grandmother. For 11 days DCF was okay with this plan. When the father could not obtain custody in family court DCF took a 96 hour hold. Counsel for mother filed a Motion to Strike the OTC and Petition. During trial DCF workers admitted that mom never violated the Safety Plan, yet DCF still prevailed and the court ruled in its favor. The case is on appeal.

### **FAILURE TO ADEQUATELY PROTECT CHILD'S SAFETY & WELL-BEING**

#### HARTFORD

##### *Failure to Protect from Maltreatment:*

DCF filed a neglect petition on behalf of a five year old child. During 6 months of court ordered protective supervision mother continued to use drugs and have multiple men in and out of the home and was involved in domestic violence; she refused medication for significant mental health and medical issues, including seizures. Counsel for child observed the above and shared information with DCF. DCF takes no action except to agree to extending protective supervision. Counsel for child files motion to reopen and modify to commitment and a motion for order of temporary custody. Once child is place in care it is determined that she is severely malnourished and has developmental issues.

## STAMFORD:

### *Disparate Treatment:*

A mother accidentally locked her baby in the car in a parking lot. It was a warm summer day. Mother refused to allow the fire department to break the window of the new luxury car to get the baby out because she said a key was on the way. The key came at about the same time the police arrived. No action was taken by DCF.

### *Different Standards for Foster Homes:*

On one of my worst I was appointed as GAL for two children in foster care. At first DCF refused to look into the grandparents who lived in another state, claiming that they did not step forward early enough. The grandparents believed they had come forward through their son - who was incarcerated and regularly told DCF of his parents. There were regular reports of the children being mistreated in the foster home - whenever I called in a complaint, the investigator would go the foster parents first then the children would recant. After this happened several times, I went the office of the child advocate who called the hotline and instructed that the child be interviewed outside the home and prior to the foster parents' being notified. The child had reported being struck with a belt, the foster mother admitted to threatening but not hitting. The foster father had a history of drug abuse but supposedly was clean for 10 years. Their lifestyle could not be supported by income absent what they received from foster care. Rather than allow the children to go to the grandparents, DCF allowed the foster parents to adopt.

## WATERFORD:

### *Failure to Accurately Assess Serious Safety Risks:*

Social worker arrives at family's home for an unannounced visit (DCF case already open to treatment). Social worker knocks on door several times, and it is finally opened by the three year old child. Just outside the door is an above-ground pool with a ladder attached. The social worker calls out for the child's mother and does not get a response until some 2-4 minutes later. The adults in the home appeared to have been sleeping, and the child was unsupervised. Inside the home, the conditions are deplorable: there are cigarette butts, food, and other garbage on the floor. There is a lighter within the child's reach. The child's diaper is soiled with urine and feces and his pajama top is filthy. This 3 year old child is non-verbal. The social worker left the premises prior to invoking a 96-hour hold. When the Department returned to invoke the hold, the child and his mother were gone.

There were several prior incidents involving this family that had come to the Department's attention. On one occasion, the child was reported to have ingested shards of glass. The glass was reportedly shattered on the floor during an incident of domestic violence in the home. On another occasion, the Department received a call to its hotline from a mental health professional, who stated that the adult who watched the child while his mother was at work self-medicated by smoking marijuana every two hours. The Department received another call to the hotline from a concerned healthcare provider, who reported that at a recent medical appointment, mother left the child unattended in the exam room while she went to the bathroom and on the same occasion, was observed shaking the child, and yelling and swearing at him. There were other, additional referrals to the Department regarding the child's hygiene, burns to the child, physical punishment by his father, substance abuse, domestic violence, and exposure to inappropriate individuals. Mother repeatedly resisted efforts by the Department to engage her in cooperating with services. The Department social worker took it upon herself to advocate for the child within the public school system to have the child evaluated for services because he was non-verbal. Mother admitted using marijuana and had a history of bipolar disorder, and she failed to attend evaluations scheduled by the Department. Father's whereabouts are unknown.

## GENERAL COMMENTS:

"I could cite many problem cases, I will instead make a general comment. There is no congruity between cases. By this, I mean similar cases with similar facts are often treated in wildly different ways. Despite SDM there are no clear standards by which we can assess a case and guide a client. Often the reason given for keeping children from parents or grandparents is DCF's feeling that a parent "lacks insight" even when the parent has very successfully completed and exceeded all that DCF asked them to do. Success is a moving target. Reunification too often depends on some slippery, unattainable, and undefined goal. It frustrates both client and counsel when the client asks what he or she needs to do and the answer is "Keep it up."

In my experience whether or not your child is taken, and more importantly ever returned, depends too much on what exit you take to get off the interstate or what town you live in. We have 2 DCF offices that are normally involved at New Haven court (Milford & New Haven).

The New Haven office is much more aggressive in taking and keeping people's kids than Milford in my opinion. In fact we don't hear much from Milford at all. The cases really aren't any different but the "philosophy" of handling them is.

A statewide standard would be nice. But it will only work if the supervisory overrides of SDM are limited. Currently there are policies and procedures in place regarding SDM but due to supervisory overrides the guidelines are not followed. The supervisors can sabotage any reform or standard if they wish and at any time they wish.

"I wanted to comment on failures to remove. So often, we see the egregious DCF actions in which children are wrongfully removed, as so many well articulated over the course of the night. And, as you know, it is extremely difficult to obtain appellate review (b/c the case goes to disposition and the appeal becomes moot). It is also extremely difficult to get improper decisions overturned because of the legal standards applied.

I would like to echo some of the other comments, though, that a major issue is the lack of consistency, across regions but also within offices (based on a host of factors and biases - like the age of the child, socio-economic status, and at times I believe race). I would want those at the legislature to understand that there are also instances in which DCF either refuses to investigate or refuses to take action (either by providing services to remediate the problems or remove the child) in very serious cases. These cases are not seen by attorneys and judges but there are many of them. The Office of the Child Advocate sees many of them and often intervenes but their staff is simply too small for them to act on all of the failures to act by DCF. So many children are left in neglectful and abusive conditions because of DCF's failure to properly investigate, biases, disinterest in getting involved in cases of teens, and the list goes on."