



# OFFICE OF THE DISTRICT ATTORNEY JUVENILE DIVISION

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## Child Welfare Case Examples

The following illustrates a list of Child Welfare case examples referenced in ADA Teresa Lowry's testimony on June 21, 2010 before the Legislative Committee on Child Welfare and Juvenile Justice:

Reflecting differences of opinion between District Attorney and Child Welfare Agency regarding child safety/best interest of the child; and/or

Revealing unchecked decision making by the Child Welfare Agency during initial investigations resulting in child safety concerns.

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**Example 1** This case involved one child whose death was suspicious for abuse and a sibling with brain damage in a wheel chair as a result of abuse. The perpetrator (mother's boyfriend) returned to the mother's home upon his release from custody. He was on felony probation for child abuse. The mother was told he could not be around her children and she knew he was convicted for abusing her child. The mother lied to authorities regarding his living in her home. Law Enforcement contacted the DDA on this case because they were concerned about follow through by DFS. DFS did not want to file a neglect petition against the mother for failure to protect. We disagreed.

**Ex 2** In this case the parents had a prior substantiated history and there was court wardship of the children for physical abuse, drugs, and domestic violence. DFS received a new report. Father admitted sex abuse of 6 and 8 year old daughters. Father moved out of home for a short time then returned home. Father was found to have a sexual preference for young children. He also failed a polygraph regarding the extent of the sexual abuse to his daughters. DFS (including supervisors and admin) fail to submit case to DA's office for a petition for almost a year. Case brought to our attention by a concerned DFS worker who was troubled by the department's inaction.

**Ex 3** This case involved an infant (male) living with mother and father. Father is a Tier 2 sex offender for sexually abusing boys. There was prior history of substantiated child abuse and neglect with siblings in California. One sibling was diagnosed with Failure to Thrive and parental rights were terminated. There was another infant that the mother physically abused by a blow to the head. The parents gave up their parental rights for that child. There was a third sibling that was removed from their care and parents again relinquished their rights. Parents never successfully worked a case plan. There were a total of four other siblings who were brought to the attention of California DFS and all were adopted. The parents then moved to Las Vegas. DFS refused to place the new infant in protective custody. The DA's office insisted on filing a petition for wardship. The parents came to court and indicated they were not interested in working a case plan and decided to relinquish their parental rights. During the course of this investigation a neighbor reported that her toddler son disclosed sex abuse by this Tier 2 offender. This case was also brought to the DDA by a concerned DFS worker who said they couldn't sleep at night because DFS administration told them to leave this infant in the home with the parents.

**Ex 4** Newborn baby tested positive for methamphetamine, mom positive for meth, dad positive for meth and parents have a criminal history of manufacturing meth. Newborn and 6 year left in home with parents by DFS. DA's office disagreed.

**Ex 5** In 1999 there was a substantiated case and court wardship for an infant who suffered physical abuse (multiple fractures, burn, seizures) while in the care of his mother and father. The father is violent and never completes a case plan. The court closed the case warning the mother not to allow the father unsupervised contact with the children. In 2005 there was a new report to DFS that the father was back in the home, physically abusive to the mother and children. The case was not submitted to the DA's office for a petition. In April 2006 the mother left the new baby alone with the father and the baby died. Child fatality is suspicious for abuse.

**Ex 6** In April 2004 case is substantiated for sexual abuse. The victim is 13 years old and has six siblings (boys and girls). The father (perpetrator) went to three counseling sessions. He stopped going as soon as DFS closed their case. Case was not submitted to DA's office for a petition. Case came back in the system after it was reported that the perpetrator had returned to the home and the victim left due to feeling uncomfortable.

**Ex 7** Sex abuse case. Victim was sexually assaulted by her father in Hawaii. Case substantiated there and criminal prosecution initiated but father absconded. Mother left Hawaii with victim and other children and moved to LV where she reunited with the Perpetrator. DFS did not want to file petition against the mother. DA's office filed petition against mother for failure to protect.

**Ex 8** Mother had extensive history of neglect and drug use in California. She moved to Nevada and continued her drug use and neglect. She left her children alone in a trailer while she conducted a drug deal in a casino. One child is murdered and the other was paralyzed for life. The surviving child is made a ward of the court. DFS wanted the plan for this child to be long-term foster care. The DA's office disagreed and filed for termination of parental rights.

**Ex 9** The DA's office disagreed with DFS when we determined we would **not** file a motion to stay a court's order to DFS to remove a foster child from a locked mental health facility that was inappropriate and not the least restrictive under the law. Note: DFS had promised to find the child a family foster home at a previous court hearing and failed to do so. There was no legal basis to request a stay of the court's order.

**Ex 10** The DA's office refused to file a Guardianship requested by DFS. The proposed guardians were the same parents whose rights had been terminated, there was no evidence they had addressed their abuse/neglect issues and the father was a convicted sex offender. As such, father was ineligible to be a guardian under our law. The parents resided out of state and the process proposed by DFS violated the ICPC (Interstate Compact on the Placement of Children).

**Ex 11** Report of physical abuse to child. Mother whipped child leaving bruising about the body and strangled child to the point foam appeared around the child's mouth. There was an adult eyewitness to the abuse. The abuse was done because the child cried due to fear of a bug in her room. DFS left child with the mother and took the matter off the court calendar. There is a corresponding criminal prosecution. DFS Worker and Supervisor objected to the DA filing a petition and ask that it be dismissed.

**Ex 12** Same worker and supervisor as in Ex 11. Young child found with mother in filthy home with marijuana growing operation. Both parents have drug use issues. Father has history of drug abuse. Worker wants to handle case informally. DA's office objects. Case transferred to Washoe County and petition is filed to seek wardship.

**Ex 13** Case involves an older teen that sexually assaulted his younger sister for years to the point she must be surgically repaired. The mother sees the victim's injury and fails to seek medical treatment. Despite our request DFS refused to place children in protective custody.

**Ex 14** School nurse, counselor and doctor all suspect victim is being sexually abused. Supervisor of sex abuse unit refused to accept case for investigation. Victim ends up in Monte Vista hospital and Metro responds and investigated the case.

**Ex 15** Children physically and sexually abused by father. Father charged criminally. He is out of custody and pending jury trial. Children left with mother who reunites with father. There was little to no contact by DFS for months. There is no treatment for family. Children are found filthy and traumatized, as mother had reunited with the father.

**Ex 16** Child sexually abused by father. Report made in Nov. of 2005. Worker interviewed victim in Jan 2006. Victim left in home with mother and no petition sought. Case submitted to DA five months later when it appears the mother was no longer cooperative.

**Ex 17** DA received a substantiated physical abuse case for petition. The case history indicates the following: there was a previous referral for physical abuse that was unsubstantiated by DFS. The DFS investigator who investigated the first case wrote that the safety plan consisted of telling the child to listen to his parents and do his homework. The worker stated "[The child] was able to understand that by completing his work it [physical abuse] was less likely to occur again in the future."

**Ex 18** Protective Custody Hearing involving new born baby boy. Mother tested positive for amphetamine (consistent with methamphetamine use). Mother denied drug use during pregnancy but admitted 6-year habit to include cocaine, heroin, amphetamines and alcohol. Mother had one clean drug test. DFS, over DA objection, moved to take the case off calendar and not proceed with a petition against the mother.

**Ex 19** Mother is transported from CCDC to hospital and gives birth to new baby. Mother admitted to methamphetamine use. Mother currently has another child in the custody of DFS and in foster care. DFS requested that the case be taken off calendar over objection of the DA.

**Ex 20** Parents only in Las Vegas short period of time and mother gives birth to new baby. Parents have mental health and drug issues. There are five other children not in the mother's care and CPS history in two other states. DA objects when DFS moves to take matter off calendar and not file for wardship.

**Ex 21** Adoption case where paternal grandfather was willing to adopt five siblings from four to fourteen years of age. The DA gave legal advice on how to accomplish the adoption under the law. DFS decided that because the grandfather would not divorce or reunite with the grandmother who he was separated from (congenial relationship for 10 years after separation) that they could not complete the adoption.

**Ex 22** On June 15, 2007 a one year old child was found dead while in the care of his parents. There was no history of accident or illness. The death was unexplained and under investigation. The father has a 2004 felony conviction for Child Cruelty and Inflicting Injury on a Child. Both parents admitted to and tested positive for marijuana use. The surviving 7 year old sibling was left in the home by DFS. On July 4<sup>th</sup> that child was brought to Child Haven after her father hit her leaving bruises on her arms, legs and buttocks as well as causing an injury to her mouth after he pushed her into the stairway while the mother watched and failed to protect.

**Ex 23** While living in Las Vegas a toddler presented to a local hospital with a leg fracture and bruises. There was a history of a fracture to the opposite leg while the family was in another state. DFS's plan was to leave the child with the mother and her boyfriend (the potential perpetrators) and make a referral to the other state's DFS and close the case. The DA's office disagreed and filed a Petition.

**Ex 24** A preschool age child was beaten by her mother's boyfriend with a belt resulting in bruises all over her body. During the investigation the mother lied to the police and told them the injuries were from a car accident. The mother was a domestic violence victim of the abuser and continued to maintain her relationship with him. DFS did not remove the children, thought the mother was appropriate and did not want to file a petition. The DA's office disagreed.

**Ex 25** This cases involved babies ages 9 months and 1 year old. The parents have mental health and drug abuse issues. This was our 3<sup>rd</sup> petition on these parents. In the first petition the baby was sent to live with relatives. In the second petition the family was given services and case was closed in October 2006. The next referral came just three months later in January 2007. Same issues. The department kept the children with the parents over DA objection. DFS moved to terminate wardship over DA objection at the first review in July 2007. The court ruled with the DA's office. After court the parents absconded with the children to Texas.

**Ex 26** The parents in this case had their parental rights terminated on two other children at the time DFS received this referral in June 2007. The mother was found passed out with a syringe in her bed, drug residue in baggies, and tourniquet on the floor. The four year old was found outside on the 2<sup>nd</sup> floor playing unsupervised and the two year old was found outside with a syringe/needle in his mouth. Police aroused mother after considerable effort. She denied drug use. DFS handled the case informally. They placed the children with the father who says he quit using drugs a year ago. (No drug test given to confirm.) One month later, in July, the police find the children in deplorable unsafe conditions, i.e., drugs, syringes, paraphernalia all over. The father told police he previously lost his children due to methamphetamine use. When the assigned DA asked the worker why she did not request a petition in June the worker never responded.

**Ex 27** This case involves a four year old child with significant health issues who is also legally blind. The first referral to DFS came in 2005 and the child was made a ward of the court due to drug abuse of parent. There were also signs of physical abuse. Wardship was terminated 11/2/06. Five days later – a new report was received for medical neglect. Medical personnel thought mother’s neglect was life threatening. Services were provided by DFS. Another report was received 6/5/07 when the child was admitted to the hospital for abdominal trauma. The mother and her boyfriend delayed seeking medical treatment. The four year old and his new baby sister were made wards of the court again. In March 2008, while under the supervision of DFS there was another substantiated physical abuse case on the four year old. He had marks on his face consistent with a slap. He was living with the mother’s boyfriend at the time. DFS reunified the children with the mother. Due to a scheduled court hearing the assigned DDA reviewed the case and noted the extensive history and that the mother and boyfriend had never addressed physical abuse in a case plan. The DDA objected to placement with the mother and objected to any expedited case closure. A meeting was scheduled with DFS management, the assigned workers, and the DDA . After a two hour meeting reviewing the safety and risk factors DFS made a home visit that day, found the children at risk and removed the children from the mother.

**Ex 28** The children in this case are one and two years old. They were made Wards of the Court in December 2006 due to drug abuse of parents, neglect and father’s failure to register as a Tier II sex offender. On April 15, 2008 DFS recommended closing the case despite the fact they were still paying the mother’s rent and providing food vouchers. They also failed to advise the DDA that the mother had tested positive for cocaine in her urine on April 3 and April 14<sup>th</sup>. Wardship was terminated over the DA’s objection. The children were back in custody 12 days later due to neglect.

**EX 29** This case involves the death of a physically and mentally handicapped four year old. The child was left in a car in sweltering heat for approximately 17 hours. There were in excess of 20 prior referrals to DFS from 1988-2007. Most recently in 2005, 2006, 2007. Despite the extensive history, lack of cooperation by the parents and evidence of neglect it does not appear these investigations were ever staffed with the DA’s office for the filing of a petition. The details in this case are extensive and should be the subject of an independent review. Further, in referencing this case in a television interview DFS suggested that the existing law hindered their ability to substantiate abuse/neglect. This argument should be considered in light of DFS’ proposing legislation in 2007 that would raise the level of proof needed to investigate reports of abuse/neglect. The DA’s office and the Family Court Judge testified against this legislation.

**Ex 30** This case involves the physical abuse of a five year old child. The physical abuse to wit: the hitting of the child in the face resulting in a bloody nose while screaming profanities at the child. This occurred in public and was witnessed by citizens. Police responded and arrested the mother for child abuse. DFS received the case. They returned child to the mother and labeled it unsubstantiated. The DFS investigation documented that the mother admitted hitting the child; the child said the mother hit him and law enforcement contact confirmed an independent witness reported that the mother hit the child at least five times in the face resulting in a nose bleed. It does not appear that the eyewitness was interviewed by DFS. The case was reported January 10<sup>th</sup> 2008. Nine days later the closing summary states “CPS investigation did not yield

substantive evidence in support of allegations of Physical Abuse”. Case closed unsubstantiated. It was not staffed with the DA’s office. At the time of the criminal Preliminary Hearing on May 5<sup>th</sup> 2008 the defense attorney for the mother called the DFS worker as a witness to testify that this was not abuse. The Judge expressed his grave concern about this worker’s testimony and held the mother to answer for child abuse.

**Ex 31** This case came to the attention of DFS in April 2007 due to bruising on an almost 2 year old child. The case was being investigated and during the investigation the child suffered further bruising to his back. The DA’s office filed a petition in May 2007. This child along with his four siblings ages eight and younger were made wards of the court. The children were returned by DFS to the mother and her boyfriend in November 2007. Upon return home the two year old boy continued to sustain unexplained injuries and bruises. In January 2008 he was found to have a healing broken finger for which he had not been treated. DFS documented that the “child bruises easily and has a high pain threshold” These new injuries were not staffed with the DA’s office. At a court hearing on March 27, 2008 DFS argued that the case should be closed.

The assigned DDA having reviewed all of the case notes and prior history objected and requested the injured child undergo a complete medical assessment by a child abuse specialist. The children remained in the home. The next day the two year old was found with new injuries to wit: linear marks to his upper back and neck. The children were removed from the parents. The DFS worker blamed the DDA for the new abuse stating that the DDA upset the mother’s boyfriend by arguing against case closure. The medical evaluation requested by the DDA concluded the following: “...is a battered child with a history of safety issues and concerns. I cannot emphasize enough that this child is at very high risk for continued child physical abuse and at risk for child death by child abuse if left in an unprotected environment as he has been in the past....he has normal perception of pain and experiences pain”. The DDA filed a second petition alleging all of the unexplained bruises and injuries to include the broken finger.

**Ex 32** This is an excerpt of an email exchange between a DDA and DFS about their refusal to bring a child into protective custody. The DDA wrote on February 12, 2008 “I am very disappointed by that decision. I personally cannot understand how DFS can recommend that a child remain in the care of a parent who is actively using drugs and engaging in criminal behaviors. To say that there are no safety concerns when the known drug abusing parent refuses to submit to drug testing flies in the face of everything we are supposed to do for children. I understand she is a teenager but to say that there are no safety concerns or risks is ludicrous. I don’t really care if she is happy in her placement with her mother – that is a non-issue – this comes down to a case where DFS is apparently willing to permit a teenager to call the shots rather than doing what is right. Don’t forget this case is about sex abuse, domestic violence, drug abuse and parental manipulation of a young child. I will be asking the court to move the hearing to a day I can be present as I no longer feel confident in the ability of DFS to represent the factual information of this case to the court without minimizing the danger posed to this child by her continued placement in her mother’s care.”

DFS management response was “It is the department position that children only be removed when it is supported by our safety assessment.”

**Ex 33** The DA's office filed a petition in this case involving three children ages one, two and nine. The father was convicted of child endangerment in 2006. His probation was revoked and he was incarcerated for 12 months in CCDCC. The father also had drug use issues and domestic violence convictions against the mother. The mother neglected the children by leaving them alone in Motel 6. There are several prior referrals to include a firearm being shot in the home, linear marks on one child after mother hit with belt, and domestic violence. DFS returned the children to the home. At the plea hearing a DFS Supervisor appeared and asked to dismiss the petition. The DA objected. The DA prevailed and the children were subsequently made wards of the court.

**Ex 34** In this case the first report regarding neglect/drug use by the mother came in 2002. The case was unsubstantiated. The next report came in March 2007. At this time the mother had three children ages five, two, six months and she was pregnant. Allegations were again drug use and were unsubstantiated. Next report(s) (there are actually multiple referrals that come in over a period of days in June 2008) are for drug use, neglect and an eye condition suffered by the seven month old that requires hospitalization. The eye condition has doctors baffled and medical personnel indicate that some of the mother's stories don't add up. One doctor suggests medical neglect. The mother tests positive in hair and urine for marijuana and cocaine. On June 26, 2008 the case is closed as unsubstantiated. DFS policy directs that positive drugs tests alone do not result in substantiation. On July 1<sup>st</sup> there is a new report alleging drugs, domestic violence and neglect. These cases were not staffed with the DA's office. This case was still being investigated when on July 6<sup>th</sup> the seven month old was admitted to the hospital with skull fractures, brain bleeds and old rib fractures.

**Ex 35** In this case the first report came in 2006 for physical abuse, emotional abuse and domestic violence. It was unsubstantiated. In October 2007 a citizen eyewitness saw the father hit the six year old in the face 5-7 times. Law enforcement described the father as transient, the home as a mess and arrested him for child abuse. The six year old described being hit every day as well as being forced to do military type punishment like pushups. The boy asked police to "teach me to be a better kid so my dad won't hit me". The assigned DDA insisted that a petition be filed and that the case be handled with formal wardship and custody. The DA objected when DFS and the Court returned the child to the father and the DDA objected again when the Court terminated Wardship March 31, 2008 as the father had not completed his case plan. Two months later there was a new report when the father hit the boy and fractured the child's hand. The child is now a ward of the court again.

**Ex 36** The first report in this case came to DFS in June 2006. Allegations were domestic violence and filthy home. Case unsubstantiated. Next report came in Feb 2007 with allegations of physical abuse and neglect. Investigation started in Feb and there are no notes until a new investigator is assigned 8 months later in October 2007. Case is closed unsubstantiated in November. New report on March 5, 2008 allegations are domestic violence. Children are infant and 2 year old toddler. Case closed March 11th as unsubstantiated. Case not staffed with the DA's office. Within one month the infant is found dead in a cluttered crib. Petition now filed for neglect, filthy home and domestic violence.

**Ex 37** In 2006, one of the most brutal cases of child abuse observed in the last five years was brought to the attention of DFS. The case involved a three-year old little girl who had traveled to the United States from Europe with her mother to stay with an individual in Las Vegas. During the approximate three months that she was here before actually being placed into protective custody, the little girl sustained a broken arm, had her finger nails pulled off, was punched in the face while being forced to stick her tongue out, had multiple contusions to her body and had a life threatening injury that required emergency evacuation of fluids on her brain. The primary perpetrator of the injuries was identified as the mother's boyfriend. An abuse/neglect petition was sustained against him in juvenile court when he failed to participate in those proceedings. Criminal charges were filed against both individuals and the mother was ultimately deported before a criminal case could be resolved against her. The criminal charges against the boyfriend were ultimately dismissed based on evidentiary issues. In 2008, the boyfriend became a father to a biological daughter and a local district court judge awarded him physical custody of the child. That information was ultimately reported to DFS in March 2009. DFS performed an investigation and Safety Assessment, which did not support the removal of the new baby despite the court's substantiation of the physical abuse to the other child. DFS did not submit a petition request for the case. The assigned DDA filed a petition without the request of DFS to seek protective custody of the baby. The assigned DDA also filed a motion to have the baby placed into protective custody pending the resolution of the petition. The Hearing Master denied the motion for placement into protective custody based on the position taken by DFS in leaving the child in the care of the father. DFS did perform a Risk Assessment and indicated that the risk to the baby was very high as a result of the historical information concerning the father, yet they refused to take any action to remove the child.

**Ex 38** This case involves a four-year old child with facial bruising. The mother failed to provide an explanation for the injuries, which were credible and the court sustained the petition at trial. Approximately 30 days before the trial, the mother gave birth to a second child. DFS knew that the mother was pregnant and failed to take any action to prevent the baby from being released from the hospital despite the older child being in protective custody and the mother being the primary suspect in the physical abuse of the older child. DFS then provided a minimal investigation and learned that the mother had moved in a boyfriend with Domestic Violence convictions from 2007 (Arizona) and 2008 (Florida) and he had not undergone any counseling to address the situation. The investigator and supervisor assessed the matter based on the DFS Safety and Risk Assessment tools and left the baby in the care of the mother. The trial was ultimately conducted on March 23, 2009 and the mother was found to be responsible for the injuries to the older child. At the conclusion of the trial, the DDA asked for the baby to be removed from the mother based on her physical abuse of the older sibling. DFS was not supportive of the removal and the Hearing Master left the child with the mother pending further investigation. Assigned DDA made an abuse/neglect report when DFS refused to pick up the baby. DDA then discussed matter with investigator, supervisor and

assistant manager regarding Safety and Risk Assessments. DFS refused to submit a petition request and DDA filed without DFS support. Baby remained with physically abusive mother and domestic violence perpetrating boyfriend and there was no safety plan implemented by DFS. A trial was held on the second petition and the Hearing Master dismissed the petition based largely on the fact that DFS did not find any immediate or impending safety threats to the child on 2 home visits. The older child remains with family members while the baby is home with the physically abusive mother and no monitoring of the situation. DFS plans to reunite the older child despite the mother's refusal to provide an explanation for the head injuries to the older child.

\* The mother has abuse/neglect proceedings in Germany and Louisiana but DFS failed to obtain those records during either of their investigations.

**Ex 39** DFS had an original report in 2007 regarding mental health issues for the mother. There was no court involvement on that case. In 2009 DFS received another report regarding mental health issues for the mother, alcohol problems and domestic violence between mother and father of new born child. DFS investigation revealed that mother had her rights terminated to the oldest child (child in 2007 report) in Utah as a result of her alcohol problems and failure to work a case plan. DFS left the child in the home with the new father and enacted a safety plan which permitted the mother to also remain in the home with additional supervisors (family members and neighbors). At the protective custody hearing, the court approved the safety plan. The assigned DDA filed a petition at the request of DFS. At the plea hearing on 6/9/09, DFS informed the assigned DDA and the court that the biological father was a tier 2 sex offender. DFS did not recommend the removal of the child from the sex offender's care, deferring that decision to the court. The DDA asked for the court to modify the placement and place the child with the maternal grandmother. Fortunately, the court modified the placement of the child pending further investigation by DFS. Unfortunately, the sex offender father and the mentally unstable, alcohol using mother were permitted to continue to reside in the home with the maternal grandmother and child.

**Ex 40** DFS originally became involved in May 2007 regarding the mother leaving her physically disabled children home alone for a minimum period of thirty minutes. DFS conducted minimal investigation and ultimately closed the case unsubstantiated when the mother fled with the children and DFS could not subsequently locate them. A second referral came to DFS on June 6, 2008, which alleged Neglect/Parents Substance Abuse, Educational Neglect, Medical Neglect Neglect/Lack of Supervision, Emotional Abuse and Neglect. DFS actually recommended a petition on this referral and the court sustained the allegations after the mother admitted the issues existed. On February 9, 2009, a new report was called in for an abuse/neglect regarding a new baby. The report indicated that the older children had not been returned to the mother based on her failure to complete her case plan and that the mother did not have adequate resources for the new baby. During the course of that investigation, the mother tested positive for ecstasy and was observed breast-feeding the baby. Despite the positive drug test results and the continued problems, DFS found the baby safe, left the baby with the drug using mother and unsubstantiated the case. A petition was never submitted to the district attorney's office for court involvement. On April 21, 2009, DFS received a fourth referral regarding the mother and this one involved the medical neglect of the new baby. During the course of the investigation DFS left the child in the care of the mother and finally placed the matter on for a protective custody hearing on June 3, 2009. During the investigation, the mother tested positive on March 26, 2009,

for cocaine in her hair, on May 7, 2009, positive for alcohol in her hair and on May 12, 2009, positive for cocaine in her urine. Despite the mother's continued drug use, DFS left the child in the home claiming that there were no safety issues supporting the removal of the child. DFS did request a petition to be filed by the DA's office.

**Ex 41** On May 18, 2009, DFS received a report (5<sup>th</sup> referral) regarding a domestic violence situation involving a child. When DFS responded, they learned that the mother of the child had originally come to the attention of DFS in 1999 and had an agency substantiated case for lack of supervision. Then in April 2001 a report regarding the mother's use of crack cocaine was minimally investigated and closed as unsubstantiated without DFS requesting a drug test from the mother. The third referral came in August 2002 regarding improper supervision, lack of resources and drug sells. Again DFS did a minimal investigation and even after the mother admitted not having food in the home; they closed the case as unsubstantiated. DFS provided some food vouchers and did not investigate the underlying causes including no drug testing for the mother. The fourth referral to DFS occurred in January 2003 and involved drug use by the mother. DFS finally requested a petition and the court substantiated the allegations. The children were placed into foster care and the mother ultimately failed to complete a case plan and had her parental rights terminated to the children.

As to the 5<sup>th</sup> referral, DFS investigated the matter and found that the mother was residing with a registered sex offender (grandfather), the grandmother and a family friend. The mother had denied using drugs but ultimately tested positive for methamphetamine, cocaine and cocaethylene in May 2009. Despite the history, current drug use, sex offender residing in the home and the father of the child committing multiple acts of domestic violence, DFS left the child in the home and informed the court that there are no safety issues necessitating the removal of the child.

**Ex 42** In May 2008, DFS received a report from a medical provider indicating that a ten-year old child had suspicious bruising inside her mouth and there was suspected sexual abuse. The case was assigned to the sexual abuse unit and the investigator interviewed the child. There was no disclosure from the child. At that point, the investigator wanted to close the case but our office was able to convince DFS to file a petition alleging physical abuse (unexplained physical injury). The case went to trial and the court found an unexplained physical injury and made the children in the case wards of the court. The children were permitted to reside in the home with the parents on the condition that their contact was supervised by a grandparent living in the home. The parents were given case plans with counseling services. The parents have refused to provide a credible explanation for the injuries throughout the time the case has been open. In June 2009, DFS requested that wardship over the children be terminated despite the parents not providing an explanation for the injuries to the child. The DA's office disagreed.

**Ex 43** A mother and her teenage daughter (low functioning – at 8 yr old level) who recently had her own child are involved. The mother/grandmother allowed a nineteen year old to reside in the home for an unknown period of time. He is the putative father of the teenage mother's child. In March 2009, he was arrested on six (6) counts each of preparing/distributing minor pornography and possession of child pornography. The teenage mother is identified as the victim of the child pornography.

There was a sex abuse investigation by DFS in late May 2009, which was closed as unsubstantiated. The mother/grandmother disclosed previous drug use to the investigator at that time, but was not drug tested.

On May 27, 2009, DFS received a report from a mandatory reporter raising concerns regarding the teenage mother's ability to provide for the care of the new baby based on her cognitive abilities and the fact that the putative father of the child was in jail. The current investigator drug tested the mother/grandmother as she wished to be considered for placement of the infant. The mother/grandmother tested positive for greater than 20,000 pg of methamphetamine in her hair.

The current investigator did not call in a new report regarding the drug issues for the mother/grandmother as it relates to her ability to care for the teenage child. DFS investigators continue to verbalize that drug use alone is not a basis to remove a child and do not raise safety issues.

The DDA assigned to the case has articulated the following safety concerns in an attempt to persuade DFS to perform a thorough investigation into the care of the teenage mother and her new baby: There is a mentally impaired 16 year old child (operating at 8 yr old level) who was sexually abused by a perpetrator her mother allowed to live in the home. That the mother/ grandmother has subsequently tested positive for a large amount of methamphetamine, indicating heavy usage during the time frame in which the abuse was occurring.

**Ex 44** In December 2008, DFS received a report from a mandatory reporter raising concerns of sexual abuse with a fourteen-year old girl. DFS assigned an investigator

and the young lady was interviewed. During the interview, she disclosed multiple incidents of sexual abuse by her stepfather occurring in the family home over the course of a seven to eight year period. The investigation also revealed two brothers living in the home with the alleged perpetrator. The mother of the children was interviewed and denied the abuse and accused the daughter of being a liar. The father submitted to a polygraph and was found to be deceptive.

Despite the disclosure of sexual abuse and the statements by the mother, DFS left the two younger brothers in the home with the mother, while asking the alleged perpetrator to leave the home. DFS submitted a petition request form, which indicated that the mother should not be charged since she was protective. After the petition was filed and without DDA knowledge, DFS subsequently permitted the perpetrator to move back into the home with the mother as the supervising party for the two younger boys.

The victim of the sexual abuse recanted her disclosure shortly after the mother started to tell her how much the brothers missed her and how things would be different in the home.

The case resolved with a no contest plea by the perpetrator. The two brothers are potential victims and the court expressed reluctance to take the boys out of the home based on the length of time that DFS had permitted them to remain home.

**Ex 45** This is an example of an e-mail sent by the assigned DDA to DFS regarding their request to terminate wardship over two children and return them to their biological father without approval from another state (violation of ICPC).

Our office is not in support of any attempt by the Clark County Department of Family Services to request termination of wardship on this case. According to records maintained by the Las Vegas Metropolitan Police Department, Father started his criminal career in Nevada in 1991 (age 20). He was arrested and charged with DUI - Controlled Substance in November 1991. In December of the same year he was arrested for a Sexual Assault (ultimately denied for prosecution for unknown reason). By June 1992, Father was arrested and charged with Possession of a Controlled Substance with Intent To Sell. In July 1992 Father was arrested and charged with Robbery with Deadly Weapon. That charge was ultimately plea bargained to Attempt Robbery (Felony) in 1993. In 1992 he was also arrested and convicted of carrying a concealed weapon. In 1993, Father was released by the criminal court to Inpatient Drug Program (no indication that this was completed). In 1994, father was arrested for Aiming a Firearm and being an Ex Felon in Possession of a Firearm. Through the criminal court system father received probation. By 1995, father was arrested for being under the influence of controlled substance and negotiated that case to a misdemeanor drug charge - he apparently did not successfully integrate his inpatient drug experiences to life on the streets. He also had a DUI involving Liquor arrest. In 1997, he was arrested for Possession of Imitation Controlled Substance and resisting a police officer. There is a police report from April 1997 (Metro) which states:

Victim came in contact with suspect at the heritage lounge. Victim tried to leave in her vehicle but he pulled her out. Suspect and victim used to date in 1992. Suspect started to hit victim and grabbed a \$20.00 bill out of her hand. Suspect also broke off victim's

necklace and bracelet taking them both. Suspect then left with some friends. Victim stated suspect went to prison in 1993 for robbing her. Father was sentenced to 3 years, stayed and placed on 4 years of probation.

In 1999, he continued to have criminal involvement and then apparently left the state of Nevada. In 2003 - according to your notes he physically abused one of the children, by striking him with a belt, leaving substantial bruises and welts and had formal services through Tennessee. The child was only 8 years old at the time of the abuse.

On June 21, 2003 – the father was arrested and charged with Child Abuse by the Nashville Metro Police Department. Presumably this is from the beating he gave the son.

On April 1, 2004 - father was arrested and charged with possession of weapon by prohibited person, possession of a controlled substance, possession of drug paraphernalia and "assault, reckless endangerment, deadly weapon". (Nashville Police). Father continued his criminal lifestyle with drugs and guns while he claims that he was the primary care provider for his sons.

On December 13, 2004 - arrested by ATF for Possession of Firearm (Federal charge) In 2005, he was convicted on a weapon related charge and forced to register as a result of that conviction from Tennessee. The father was incarcerated at the United States Penitentiary, Lompoc, CA in May of 2006. He was paroled on March 14, 2007 to Nashville, Tennessee and is on parole until March 13, 2010.

You can see from the 14 years of documented criminal involvement that the father was engaged in selling drugs, using drugs, driving while using drugs and alcohol. He was also engaged in violent criminal conduct which involved deadly weapons (guns) and just four years ago was convicted in Tennessee of a gun related offense for which he was sentenced to prison. He did 10 months in prison. It does not appear that he has changed his life to the point where two children can be safely placed into his care. live that lifestyle. Additionally, the mother was deathly afraid of him because she lived a very violent 12 years with him. There was a lot of domestic violence between them. On June 30, 1995, she filed for and was granted a TPO.

It is my legal opinion that the Clark County Department of Family Services will be violating ICPC by simply requesting the termination of wardship and permitting the children to be placed into the care of the father without the approval of Tennessee ICPC. DFS knows or reasonably should know that the father intends to return to the state of Tennessee with the children if the court follows the recommendation. There is no legal basis to terminate wardship at this time and it cannot be argued that reunification has occurred at any time prior to the June 9, 2009 court hearing in this matter.

I respectfully believe that the Clark County Department of Family Services needs to appeal the denial by Tennessee ICPC, through appropriate channels and not try to circumvent the ICPC process. There should be some supervision of the children while in the father's care to insure that they are not beaten with foreign instruments and that he can handle their behaviors. He beat an 8 year old for associating with someone he

did not approve of - what is he going to do to a 14 year old who has teenage issues of drug use?

Additionally, I did not see a recent safety or risk assessment in Unity (the last documents were from 2007). I took the liberty of completing a blank risk assessment which has the following:

Current Complaint - Neglect -----	1
Prior Investigations -	3 (3 in Nevada and 1 in Tennessee)
Household - CPS -----	1
Number of Children	0
Age of youngest child	0

Primary caretaker/inconsistent care gave benefit of doubt)	0 (	based on the beating it is arguable but I
Primary caretaker - mental health gave benefit of doubt)	0	(again based on physical abuse it is arguable but
Primary caretaker - alcohol drugs	1 1	
Characteristics of child	0	
Housing - currently unsafe refuses to supervise)	1	(No ability for DFS to determine but Tennessee
Total	7- 8	- High Risk according to DFS scale

At this time, the children cannot lawfully be placed into the care of their father and DFS has not achieved a permanent placement for them.

DFS went into court with a recommendation to violate ICPC and terminate wardship. The DDA was able to prevent that from occurring but was required to provide a legal memorandum to the court. It was still DFS' plan to reunify with the father because they have no other plan for the two children in this case and have failed to achieve any permanency for the children in 2 ½ years.

**Ex 46** A family came to the attention of DFS after the father shot three Metro Police Officers while they were trying to execute a search warrant on the home. Two of the three children were home during the incident and traumatized by the events. The mother of the children had a history of child protective service involvement in California and the father had a criminal history from California that was revealed during the investigation. The initial response from DFS was to not file a petition alleging any abuse or neglect based on the father being in jail and the mother appearing to be protective of the children. A petition was filed by the DDA assigned to the case without a request being made. The petition was ultimately resolved and the father agreed to participate in a case plan with counseling services. The criminal case is still pending a trial and there is a strong likelihood that the father will be going to prison.

Despite the factual circumstances and the uncertainty of the future for the mother and children based on their financial dependence on the father, DFS recommended the closure of the case, citing no safety or risk concerns for the children. Based on that recommendation the court terminated wardship over the objection of the DDA assigned to the matter.

**Ex. 47** On June 26, 2009, a DFS worker conducted an unannounced home visit to check on two children. The children (who were 6 years old and 18 months old respectively) were wards of the court and were placed with their maternal aunt following removal from their mother's home. When the worker arrived for the home check, she found the children had been left in the care of two adult males who had not been background checked and were not authorized to care for the children. The 18-month old was sitting on a training potty. His hands were tied behind his back with shoelaces. A rash covered his body and his eyes were red and infected with discharge surrounding

his eye. The child did not have a diaper. The adult male stated that the child was tied up so that he could not scratch the rash. The six year old was found sitting on the couch watching television with several other children. The DFS worker called her supervisor to respond. After consultation with a DFS Assistant Manager and after speaking with the perpetrator, the worker and supervisor removed the two children who were wards. However, they did not remove any of the perpetrator's children finding that there were "no safety concerns." Records reflect that the mother had four (4) children. The children were 9 years old, 7 years old, 5 years old and 6 months old at the time of the incident.

When the 18-month-old ward was taken to Child Haven, he was treated for impetigo, scabies, eczema, staph and conjunctivitis. He had an open sore under his scrotum. The child had ligature marks on his wrists and lower legs. DFS did not call police to respond to investigate the child abuse until seven hours later, when much of the evidence was lost or destroyed. When Metro responded, the ligature marks on the wrists had faded and were no longer visible, but they were still able to observe the ligature marks to the child's legs despite the passage of several hours.

When CPS attempted to contact the perpetrator's children the next day, the perpetrator reported that the children had been taken to California by their grandmother. The grandmother and children were not able to be located for five (5) days. When they were located, CPS had California authorities conduct a courtesy interview. When the children did not disclose direct abuse against her children and based on their "relocation" to California, DFS determined the children to be "safe" and closed the case "unsubstantiated" as against her own children. The case was never referred to the District Attorney's Office for filing of a petition based on the risk of harm to those children.

The District Attorney's Office discovered this action by DFS and informed them of the DA's intent to file a petition.

**Ex 48** On July 24, 2009, a one-year-old child died from abusive injuries inflicted by his father, who had a history of domestic violence and other violent crime. The child had obvious scratches and significant bruising to his face and body. An autopsy later revealed abdominal injury, internal hemorrhaging and multiple rib fractures.

CPS investigated this family three times in early 2009 following multiple hotline calls on January 3, March 2 and March 29. The hotline calls included detailed allegations

regarding the children (ages 1 year, 2 years and 5 years) being left alone for extended periods of time. The reports referenced the father's periodic incarceration and detailed mother's extensive drinking and drug use, including regular drug use in front of the children. The reports described the home as filthy with an overwhelming odor and trash (including dirty diapers and old food) piled up from the floor to the counters in the kitchen. The bathtub was black with filth and there was standing urine in the toilet. The reports detailed that the home was without power or food and that the mother was seen selling her food stamps for drug money.

Despite the fact that the investigations revealed substantial credible evidence to support the allegations and their own risk assessment reflected that the family remained a "moderate risk," DFS closed all three investigations as "unsubstantiated" without

referring them to the District Attorney's Office for filing of a petition. Two were closed without services. One case indicated that the Department handled it "informally." The family was not referred to the District Attorney's Office until the one-year-old child died from the abusive injuries inflicted by his father.

**Ex. 49** On July 2, 2009, an allegation of sexual abuse came into the CPS Child Abuse Hotline. The case was assigned to an investigator, who immediately interviewed the victim child and her mother. Based on her preliminary interviews, the investigator entered into a "safety plan" under which the mother agreed to allow no contact between the child and the perpetrator. Thereafter, the investigator had little or no contact with the family for more than 30 days. When the child victim was interviewed at the Southern Nevada Children's Assessment Center on August 6, 2009, she disclosed that in the intervening month her mother moved in with the perpetrator and that she was currently living with the perpetrator. The victim disclosed being sexually abused prior to the CPS report and being re-offended in the intervening month after her mother moved in with the perpetrator. The child was subsequently removed, but not until after she had been re-victimized and forced to live with her sexual abuser.

**Ex. 50** In June 2009, CPS unsubstantiated a sexual abuse case with credible disclosures from two victims. The case was called into the Hotline and assigned to an investigator, who interviewed the 15-year-old child. The child disclosed that when she was 12 or 13 she had surgery on her feet. She took her pain medication and fell asleep on her parent's bed. When she woke, her panties had been ripped off and her bra was off. In another instance, she woke up to see a shadowy figure who she identified as her father taking off her pants. She pretended to roll over in her asleep and her father left the room. In a third instance, she was lying in bed when she felt her father's hand on her leg. She was able to get up and get in her sister's bed to get away for his advances. In a fourth instance, her father told her to take Xanax. The child pretended to take it, but did not. Her father kept asking if she was sleepy. The victim secretly called her mother and asked her to come from work for fear that the father was going to sexually abuse her again. In each instance where the father sexually abused this child, the mother was confronted with the father's actions and she did nothing to protect her children. The victim also disclosed that her father sexually abused her (now adult) sister several years earlier.

CPS interviewed the sister who disclosed that her father repeatedly sexually abused her. She described that he would give her Xanax and then touches her once she was

asleep. In the first instance she remembered, he gave her Nyquil. After she fell asleep, she felt him touching her vaginal area and she felt his finger inside her vaginal opening. When she moved, he got up and left the room. In another instance, when she was 15 years old, he tried to give her Xanax. She pretended to take it. That night, he came into her room and lay down in the bed next to her. He tried to pull down her pants but when she moved, he stopped. A minute later she felt him touch her vaginal area, hurting her "really badly." When she moved again, he stopped for a moment but then

started touching her again. She turned over and he finally stopped and left the room. When she told her mother, her mother did not believe her or protect her.

Despite receiving these detailed disclosures, CPS closed the case “unsubstantiated.” The District Attorney learned of the case and independently filed a petition. The father pled no contest to the petition.

**Ex. 51** In June 2009, a 17-month old child presented at University Medical Center with extensive 2<sup>nd</sup> and 3<sup>rd</sup> degree immersion burns to both hands. The burns encompassed the entirety of both hands ending in a ring shaped line around the wrists such that they resembled “mittens.” Mother admitted responsibility for the injuries, but attempted to explain them as “accidental.” At the dispositional hearing, the Department submitted mother’s case plan to the Court. The case plan did not require the mother to engage in any services to address the physical abuse of the child nor did it include a mental health assessment. At the request of the District Attorney’s Office, the Court directed the DFS worker to prepare an amended case plan including those requirements. When the amended case plan was presented to the court several weeks later, it still did not include any language to address the mother’s physical abuse of this child. When confronted with the omission, the DFS worker stated that it was her belief that the physical abuse “only applied to the father.” This was despite the fact that the mother had prior substantiated petitions for physical abuse of the children and she admitted to causing these injuries.

**Ex. 52** In December 2007, DFS investigated a case involving a 13-year-old girl who was repeatedly sexually abused by her mother’s adult boyfriend beginning at age 10 and continuing over the course of several years. The child described the boyfriend removing her pants, rubbing her vaginal area and kissing her stomach. He forced her to bend over and rubbed his erect penis against her vaginal area. He also made her fondle his penis. During the initial investigation and despite the boyfriend’s plea in child welfare court, the mother never believed her child and maintained a romantic relationship with the perpetrator. In March 2009, DFS requested to close the case despite the fact that criminal charges were pending against the perpetrator, the boyfriend had not undergone any treatment or worked his case plan, the mother continued to maintain a romantic relationship with the perpetrator, and the mother refused to believe her daughter. The District Attorney objected noting the obvious concerns for the safety of the child and Court refused DFS’s request for closure.

**Ex. 53** In May 2009, a 3-year-old child was determined by CPS to have an adult-size bite mark on her arm and two red marks on her legs. The victim told both the reporter and the CPS investigator “mommy bit me.” The reporter also informed CPS that she observed the mother pull the child’s hair so hard the child was lifted off the ground, that (from outside) she heard the child screaming inside the apartment for an extended period of time, and that the child and her 2-year-old brother were frequently left outside without supervision. In one instance, they tried to bring the 3-year-old back to the family apartment, but the door was locked and no one would answer. In another instance, the 2-year-old was outside unattended without a diaper and was almost hit by a car. The source reported seeing the mother with a black eye on a previous occasion. Mother also presented with a black eye and bruised arm when interviewed by CPS. The mother pled no contest to the petition.

At the dispositional hearing, DFS recommended that the children not be made wards and that the case be closed. Despite the mother's plea to the allegations, the DFS caseworker communicated to the DDA that she disbelieved the allegations. The Court, at the behest of the District Attorney, kept the case open and required DFS to develop a case plan to address the children's safety and to include specific counseling for the physical abuse.

**Ex. 54** On August 2009, a five-year-old child was severely beaten while living in the home of her father and stepmother. Upon return to her mother's care, the child had multiple bruises in the shape of finger marks on her upper thigh near her groin area, a bruise in the shape of a hand print on her buttocks, and a long, linear bruise on her thigh that appeared to be a belt mark. She also had a bruise under her left eye and two bruises to her face near her chin and jaw line which appeared circular like a fingerprint. The bruises were both old and new. The child had suffered significant hair loss while in the care of her father, and she had not been treated for a urinary tract infection while in her father's care despite the fact that father had been advised of the need for treatment. As a result of the extensive abuse of this five-year-old, she was placed with her mother and her step-and half-siblings (ages 5 years, 3 years and 6 months) were removed from the home.

When the case transferred workers, the permanency worker erroneously believed that that North Carolina Family Assessment Survey (NCFAS) – a tool recently “rolled out” by the Department - was a risk assessment tool and, based on the results of her NCFAS assessment recommended that the infant and two other very young & vulnerable children be returned home. When the DA objected, the error was discovered and the children were not returned home.

**Ex. 55** Mother admitted her abuse and neglect petition in September 2007 and was ordered to complete Drug Treatment. At the 6-month Review hearing in March 2008, Mother was continuing to relapse and was ordered into the Family Court Drug Court program. In mid-2008, mother appeared to be doing well and DFS reunified the children into her home. Shortly after the children were reunified, mother began to relapse again. Between July 2009 and January 2010 mother failed to submit urine samples or tested positive in her urine: 7/29 (residual THC), 7/31 (new marijuana use), 8/3 (new marijuana use), 8/14 (new marijuana use), 8/17 (new marijuana use), 9/2 (missed UA), 9/23 (missed UA), 10/26 (new marijuana use), 11/2 (Opiates and new marijuana use), 11/26 (Opiates), 12/7 (new marijuana use), 12/28 (Opiates and residual marijuana). In January 2010 she remained in poor compliance with Level I in Drug

Court and tested positive in her hair at extremely high levels (>25,000 for Cocaine, 6224 Benzoyllecgonine and 328 Norcocaine). Thereafter, mother failed to return to drug court. The Court *sua sponte* put the matter on for protective custody review.

At the PC hearing, DFS argued that despite the extremely high levels of drugs, the children were safe in mother's care and should not be removed. DFS repeatedly told the Court it had “no safety concerns.” The District Attorney's Office pointed out to the Court that mother was using large amounts of illegal drugs on a regular basis. The DDA noted that, while mom denied using in the home, she is responsible for the care of the children 24/7 and that she is not and cannot be an appropriate caregiver while she

is high or withdrawing from drugs. The Court ordered the children removed from the mother's home finding significant ongoing safety threats to the children based on mother's pattern of drug use.

**Ex. 56** In September 2009, DFS recommended case closure on a sexual abuse case in which the mother's 41-year-old boyfriend sexually abused her 12-year-old daughter. The 12-year-old was sitting on the couch when the boyfriend put his hand on her vaginal area and began rubbing it. He told her that he did not want to "hit it." He said he only wanted to "see it." The 12-year-old also disclosed that the boyfriend played with her one-year-old brother's genitals. The perpetrator was the father of the one-year-old and was on the child's birth certificate. Despite the fact that the perpetrator continued to deny the abuse and had not obtained an evaluation or any treatment whatsoever, DFS recommended closing the case in the belief that the mother was protective and that there was a valid protective order in place. In fact, no protective order was in place because the mother had failed to appear for the hearing to extend. Since the father maintained his parental rights to the one-year-old, if the case had been closed based upon the representations of DFS the child would have been placed in significant danger of further abuse.

**Ex. 57** Between 2000 and 2008, CPS received 9 calls reporting abuse and/or neglect on this family. Four (4) of the reports were substantiated, four (4) were unsubstantiated and one was screened out without any investigation. None of the cases were referred to the District Attorney's Office for filing of a petition.

The case that was screened out by CPS without investigation occurred September 10, 2008 and involved physical abuse of multiple young children by their father/stepfather. The reporting source told the hotline that the 7-year-old child had marks/bruises on his leg and shin. The child stated that he received the bruises while "fooling around" with his stepfather. He stated that he and his stepfather fight a lot and that the step father "likes to leave marks" on him. The child told the source that his stepfather "beats the shit out of him and pushes him around." The 7-year-old stated that his stepfather punched his 4-year-old brother in the rib cage, hurting him. The 7-year-old also reported that his stepfather hits and pushes his two-year-old sister when she doesn't listen. Despite the family's long CPS history and the call-taker having knowledge that the stepfather had "criminal history including violent charges," this call was "screened out" without even speaking with the children or any investigation whatever.

Approximately nine (9) months later, the family's now 3-year-old child presented at the hospital with a femur fracture (this is the same child that was alleged to be physically

abused as a 2-year-old above). Her leg was broken when her stepfather threw a door over an upstairs loft balcony down onto the living room floor below, where the child was sleeping. The door struck the child's leg, breaking it. The family reported that children regularly slept in this area on the living room floor because the rest of the house was too dirty and cluttered to sleep in. When the child presented at the hospital she was described as "filthy with extremely poor hygiene." The hospital social worker described hospital staff having to clean caked fecal matter out of the child's perianal area. Hospital staff described the other children as being equally filthy and stated that mother allowed them to run around unsupervised. They stated that the mother "wreaked of alcohol, was argumentative and acting bizarre."

When responding to the house, CPS described the conditions inside as “deplorable,” with clothes, food and miscellaneous items strewn across the house. During the home visit, the mother was not tending to the younger children, but instead the older children were assuming that responsibility. The victim’s siblings described that the stepfather “gets crazy and breaks things.” The family members stated that stepfather is known to drink alcohol and that he had been drinking that night. A criminal history of stepfather reviewed that night revealed a history of violence, including domestic violence against the mother.

CPS left the children in the care of the mother with mother promising not to allow contact between the father and the children or between the stepfather and the children. Between the time of the offense and the protective custody hearing, the mother violated the agreement to allow no contact numerous times. She also told DFS that she was financially dependent on the men in her life and that, for that reason, she wanted to move back in with the abuser. The children were removed from her care at the protective custody hearing at the request of the District Attorney.

**Ex. 58** In April 2009, a foster parent informed CPS that the 4-year-old child in her care had disclosed sexual abuse. The child is special needs and suffers from cerebral palsy. The child was interviewed at the Southern Nevada Children’s Advocacy Center, where she disclosed that her mother’s boyfriend would “do bad things” to her. The child disclosed that he would go under her skirt, pull down her panties and “smell her butt.” She said his “wiener” would touch her butt when he smelled it and he would tell her “I love you” when he did it. She said her mother saw him “smell her butt with his wiener” and that she told the victim “you don’t want to have that.” Following this disclosure, DFS did nothing for two months to further investigate the abuse or protect the child. On July 1, 2009, DFS contacted the child’s therapist and confirmed the disclosures. The therapist advised that the victim disclosed that her mother’s boyfriend would choke her and put his “wiener in her butt and it hurt.” She also described him putting his penis in her mouth and demonstrated him taking both their clothes off and rubbing his genital area against hers. Yet, nothing was done for another four (4) weeks. Finally, on July 28, 2009, DFS for the first time reviewed the videotape of the child’s disclosure at the SNCAC. Thereafter, the investigator directed that the child’s visitation with the mother be stopped and she calendared the matter for protective custody review.

**Ex. 59** Three children (ages 14, 5 and 2) were taken into protective custody on February 11, 2010, after their father attacked their mentally retarded, bed-ridden maternal aunt with an axe. The father then left the home and brutally bludgeoned a 28-year-old woman (who was a random stranger) and her four-month-old baby with the axe, killing the infant and critically injuring the woman.

When CPS responded to the scene, they spoke with the mother, who told them that the father had been acting strangely the last few weeks. She stated that he appeared dehydrated with dark circles under his eyes, he hadn’t been sleeping, he had “been doing a lot of thinking” and was having dreams regarding death and angels. The mother denied any drug or alcohol use by the father. The CPS investigator removed the children after determining that they were unsafe in the mother’s care based upon

her decision to leave the children with the father while he was clearly displaying unusual and bizarre behavior.

The 2-year-old was transported to the hospital by the Fire Department prior to CPS arrival. A body check was done on the child. A healed burn mark was found on the child's left rib cage and he had redness and scarring on his buttocks, which appeared to be caused by a diaper rash. He had bruising on both shins and a small red mark on the middle of his neck. He had a small blister on his bottom lip. The child was observed running, throwing items and taking off his diaper to urinate on the floor. The child appeared to be verbally delayed, as he would not speak and only grunted.

After the crime scene had been cleared, CPS was allowed to view the family home. Prior to CPS access, police had impounded the decorative axe used to kill the woman and infant and a second axe with a pointed spear end that was used to attack the mentally retarded, bed-ridden maternal aunt. They also had impounded 2 decorative Samurai swords as well as marijuana, scales and drug paraphernalia.

Upon entering the home, the CPS investigator noted a strong odor of urine throughout the home. The flooring in the main living area was soiled with numerous piles of trash (including old food, food containers, and cigarette butts) up against the walls. The kitchen area had piles of trash against the walls, piles of dishes in the sink and on the counters, and piles of food on the floor. There were ashes and cigarette butts on the counters and floor. The refrigerator contained only old, spoiled food and there was old liquid and food crusted to the bottom and sides of the refrigerator. There appeared to be no edible food.

The master bedroom closet was full of clothing, trash and paperwork. A dresser in the closet contained an ashtray with cigarette butts and the remains of smoked marijuana cigarettes, commonly referred to as "roaches." The master bedroom was in disarray with materials to roll marijuana on the bed. The bedside table was covered in old cigarette butts, roaches and ashes. The bedroom that appeared to belong to the 2- and

5-year old boys had a mattress on the floor. The sheets were stained with feces and there was fecal matter smeared on the walls. There was trash throughout the room and marijuana roaches and ash on the children's windowsill. The bedroom that appeared to belong to the aunt had a strong stench of urine. There were no sheets on the bed and a urine soaked blanket was on the floor. The mattress was soaked in blood where the aunt had been attacked while lying on the bed.

The toilet in the bathroom was clogged with feces and urine. There was obvious water damage and mold on the bathroom wall next to the shower. There was a pitbull in the backyard that prevented access, but CPS was able to see an accumulation of trash bags in the backyard. Despite Metro Homicide already being present, the CPS investigator independently called the Metro Child Abuse and Neglect Unit regarding the living conditions.

In a subsequent interview, the mother disclosed that there was a long history of mental illness on the father's side of the family, including two of the father's brothers being diagnosed paranoid schizophrenic. The mother's description of father's recent behavior

reflected agitated and bizarre behavior for several days prior to the attacks. He had told the mother that he did not have long to live and that he was talking of angels and death. Three days before the attack, the father had “passed out.” When he awoke, he was apparently delusional and believed someone had hit him & knocked him out, so he started swinging and fighting. In his rage, he grabbed a picture and smashed it on the floor. No one saw the incident. When family members found the picture, the father first denied knowing what happened. Two days later (the day before the attack), the father told the mother what had really happened. The mother described that in the days leading up to the attack, the father had a different look in his eyes that reminded her of his schizophrenic brothers. The mother also admitted that the father was using marijuana, despite her prior statements that he did not use any drugs.

In an interview with the 14-year-old daughter, the daughter stated that she was aware of father’s marijuana use. She also stated that several days prior to the attack her father had been displaying abnormal behaviors and saying strange things. His conduct was so strange that she and her mother had both commented on it and talked about it. She also described an incident in January 2009 when she was 13 years old and in the 6<sup>th</sup> grade. She had run away from home and when she returned her father beat her with a belt. He had her bend over a dresser while he beat her. When she kept lifting her head up, he slammed her face into the dresser causing a bruise on her cheek. She also had bruises on her buttocks from the belt, but she did never told anyone about the belt marks. CPS records show that they investigated the incident and verified the mark on the victim’s face, but unsubstantiated the allegation after the parents denied knowing how she sustained the injuries. They never did a body check and never discovered the belt marks on her backside.

The day after the attack, DFS released the children back to the mother, finding that she had sufficient protective capacity to keep the children safe. On February 17, DFS received mother’s drug tests back, reflecting positive results for marijuana in both her hair and urine. Since that time, the mother has gone to visit the father in jail. In an interview February 24, the mother admitted that a couple weeks before the attack, the father was not as communicative as normal and was pacing around the house. He was saying things like “you can’t kill an angel and go to Heaven” and “you have to kill the devil.” She suggested that he go to UMC, but did not pursue it after he said he didn’t think it was necessary.

The mother told DFS “if I leave him, which I have to do for my own sanity, I don’t know what that would do to him.” But, then she described the father crying when she talked about leaving the state with the children. Later in the conversation, the mother talked about possibly staying in Las Vegas for the father’s trial and then leaving later.

DFS released these children from protective custody the day after the attack without a court hearing or completed investigation. DFS indicated that they were not inclined to request file a petition or court intervention. DFS indicated that their initial findings were that the children are safe and that the case does not warrant a formal court process. The State initiated a dispute resolution, indicating their concerns regarding mother’s mental health and her ongoing protective capacities. DFS ultimately agreed that a petition was appropriate against father and mother.

**Ex. 60** In December 2008, a five month old infant presented at the hospital with a non-acute fracture of his right distal humerus (upper arm bone). The fracture was determined to be approximately a week old. A bone scan was conducted which revealed additional healed fractures of the infant's right tibia (lower leg bone), left distal radius (wrist), right distal radius, and four of his left posterior ribs # 7, 8, 9, & 10. Due to the healed condition of these injuries it was determined that they were inflicted a different time than the humerus fracture. The parents were unable to provide a medically justifiable explanation for any of the injuries to this infant. The investigator staffed the case with a medical expert and ruled out a possible diagnosis for "brittle bone" disease, based on the lack of family history and the child's lack of external indicators as well as the type of injuries, which were indicative of abuse rather than a medical disorder.

A background check revealed that the mother previously lived in Texas and two weeks prior to this infant's birth she tested positive for barbituates and amphetamines. Drug tests conducted in Texas five days after the infant's birth showed the mother positive for PCP and barbituates. Texas closed their case after the mother completed a drug assessment, which did not recommend treatment, and both parents completed parenting classes.

The abuse and neglect petition was negotiated with both parents pleading no contest. The State agreed not to file a Motion to Waive Reasonable Efforts for six months to give the family an opportunity to provide a medically justifiable explanation for the injuries and commence treatment. To date, the parents have not provided a medically justifiable explanation for the injuries to this infant and, as a result, a Petition for Termination of Parental Rights (TPR) was filed in December 2009.

This infant sustained no new injuries while placed with his local foster parents for several months. However, after being transferred to a relative placement out of state, the infant recently sustained a new fracture to his right arm. The out of state child protection agency ruled the injury as [abuse or neglect] "indicated" with perpetrator unknown. A physician in that jurisdiction also ruled out the possibility of brittle bone disease.

Despite all of the above, in February 2010, the assigned Nevada DFS supervisor communicated to our office that she was not certain she wanted to proceed to TPR. They stated that they wanted the child tested for brittle bone disease so that it can be

"proven" that the injuries were abusive in nature. At the time of the request, she had not reviewed either the local or out-of-state medical record. As a result, she was completely unaware that the records indicated that these types of injuries were indicative of abuse. She told our deputy that it was "not fair" to require the parents to admit the abuse, despite the parent's clear agreement in the plea negotiations that they would provide a medically justifiable explanation for the injuries and the fact that she had access to the mother's prior statement to a treatment provider that she "might know" who injured this infant.

The District Attorney's Office, with the assistance of the CPS investigator and supervisor (who understood that these were abusive injuries and supported TPR), were able to educate the permanency worker and supervisor in this case. This education

process was ongoing for approximately two months, during which the permanency staff would not commit to whether they would support the pending TPR.

**Ex. 61** In July 2009, the District Attorney's Office filed a petition alleging that a father had sexually abused a minor child and therefore was an inappropriate caregiver for the children in the family. The victim in the sexual abuse was not a child alleged in the petition, but rather was his half-sister who was seven years younger than he. The petition also alleged that his prior acts of domestic violence against the mother adversely affected his ability to care for the children. Specifically, the petition alleged

that the father threatened to put a knife to the throat of her daughter in the presence of her two young daughters, ages four (4) and five (5). Criminal data bases also confirmed a significant history of domestic violence, including two convictions. On September 29, 2009, a default was entered against the father. The family has been under the supervision of DFS since that time.

Despite the Court Substantiation being in place, in November 2009, DFS overturned their agency substantiations for Risk of Sexual Injury as to three (3) of the family's five (5) children.<sup>1</sup> The father was notified of the reversal and was also notified that the substantiations would be removed from the State's central Child Abuse and Neglect registry.

In February 2010, the State was served with a Motion to Set Aside Default, citing DFS's reversal of its agency substantiation on the same allegations. The District Attorney's Office contacted DFS to confirm the department's actions. DFS verified that it is against department policies to overturn an agency substantiation when a court substantiation was in place. However, they also acknowledged that they had overturned the substantiation.

It should also be noted that DFS records dated December 23, 2009 reflect that DFS intended to close the case as to two of the father's children at the next court hearing with an order that he would have no contact with those children until he completed a psychosexual evaluation and completed his sex offense treatment with regard to his victim. Thus, while department administration had unsubstantiated the risk of harm to

these children (and therefore necessarily found no credible evidence of a risk of harm to these children), the records prepared by the worker at the same point in time reflect a clear concern for the safety of these children if left in his care prior to sex offender treatment. And, despite the clear safety concern perceived by the worker, she intended to close the case without ensuring that the father received treatment. Of equal concern is that the case worker's note does not address the fact that he even has a third child. It is unclear what her intent would have been as to that child.

Fortunately, the Court did not close the case at the subsequent hearing despite DFS.

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<sup>1</sup> The mother had five children. Three children were father's biological children. Two were the biological children of another man. The agency unsubstantiated the risk of sexual harm allegations as to one of his three biological children (but not the other two) and it unsubstantiated the two children that were not biologically his.

**Ex. 62** In September 2009, Las Vegas Metropolitan Police Department responded to a call of a four-month-old infant not breathing. When medical personnel arrived, the child was not breathing and had no pulse. The father reported that he was napping with the child while the mother was at work. The father stated that when he awoke the child was breathing shallow and crying. It wasn't until after arriving at the hospital that the infant's heart began beating on its own again. Following a skeletal survey, doctors discovered two healing, non-acute rib fracture (meaning that the fractures happened several days prior). The child was having seizures and was admitted to the Pediatric Intensive Care Unit. Neither parent could provide a medically justifiable explanation for the infant's injuries. A doctor informed the CPS investigator that the infant's critical condition upon presentation was due to "oxygen deprivation," not pneumonia.

A records check on the father revealed that he and his then wife (now his ex-wife) were arrested in 1994 in connection with injuries to their then one-month-old son. They took the child to the doctor for a fever and x-rays disclosed a broken clavicle and ribs. The father attributed the injuries to co-sleeping with the infant. Eventually, the charges were dropped.

Shortly after our case was filed, we received a Request for Motion to Waive Reasonable Efforts from the CPS investigator in this case. The matter is set for adjudicatory hearing on March 19, 2010. Since the motion to waive is not ripe until there has been a finding of abuse and neglect, it is the State's intent to file the motion as soon as the matter is adjudicated.

On February 3, 2010, the District Attorney's Office received a communication from the permanency worker assigned to the case that she wanted to start the reunification process. The District Attorney's Office responded that we intended on waiving reasonable efforts in accordance with the request of the department. The permanency worker indicated that she did not agree with that decision and that she did not want the District Attorney's Office to file the motion. Despite the fact that the parents have not provided a medically justifiable explanation for the injuries, the permanency worker maintained that the child was ready to be reunified.

Due to the conflicting requests from DFS, the DA's Office was required to initiate a dispute resolution between CPS and permanency, requesting that they give us a clear direction on their intent. It is unfathomable to the DA's Office that one employee of the department would view this as so serious as to relieve the department from its federal mandate to preserve and reunify the family, while at the very same time another

employee of the same agency is saying that not only should the family be reunified but that they are in fact ready to begin the process.

**Ex. 63** Siblings ages 9 (male) and 13 (female) are being raised by father and stepmother. The family was the subject of nine (9) abuse and neglect reports between February 2007 and February 2010.

On February 14, 2007, the then 7-year-old boy had cuts inside his mouth. It was reported that the child stated that his stepmother caused the injury by force-feeding him oatmeal with a fork. He also had a gouge on the right side of his mouth. DFS verified the injuries, but closed the case unsubstantiated after the

stepmother denied causing them. On February 15, 2007, while investigating the prior report, an additional report was received that six months ago the child came to school with a black eye. Staff stated that he frequently came to school dirty and that he was always hungry. Staff had made special arrangements for the child to eat in the cafeteria so he would not go hungry. These allegations were also unsubstantiated upon denials of the parents.

On March 28, 2007, a report was received from a mandatory reporter that the then 11-year-old child disclosed that she and her brother were sleeping in the father's car while he works. Upon denials from the family, the case was closed unsubstantiated.

On May 16, 2007, a mandated reporter disclosed that the 7-year-old boy disclosed being hit with a hairbrush and pushed down stairs by his stepmother. He was told to

stand in a corner with his hands over his head. The stepmother told him to "Shut up for five fucking minutes" and called him an "asshole." The reporting source indicated that he had bruises on his left wrist, on his back between his shoulder blades and a red mark on his right wrist. The reporting source indicated that she believed the children were coached and that they knew they were not supposed to disclose to CPS. An interview with the child confirmed that he was pushed down the steps by the stepmother. However, the rest of the family denied the abuse and characterized the child as a "liar" with "behavioral problems." Thereafter, the matter was closed unsubstantiated.

On December 30, 2007, a report came in to the hotline from law enforcement. The report indicated ongoing domestic violence in the home. The domestic violence included the father grabbing the stepmother by the neck, pulling her hair, calling her a "piece of shit bitch" and threatening to kill her. Stepmother stated that father controls the finances, forces her to sign her unemployment checks over to him and that he threatened to hurt her dogs if she did not comply. She stated that father knew how to hit her without leaving marks. The report also indicated that in April 2006, father broke the son's arm. Stepmother told the officer that the family lied to cover up the injury by saying he tripped over the family dog and fell. CPS did not investigate the allegations, closing them "Info Only."

On February 28, 2008, a report came in from a mandatory reporter indicating the son had 15 separate bruises on both legs, both elbows, left arm, a lump on the back of his head and a bruise on his left eye. The reporting source indicating that the marks on the

arm resembled fingerprints. It was also reported that the child was missing approximately five (5) days of school a month, having tantrums in class, throwing objects, refusing to complete assignments and using the bathroom excessively. The family denied the abuse, blaming the bruises on the child's rough play and claiming the school was "targeting" them. Despite verifying most of the bruises including the bruise to the eye, DFS again closed the case unsubstantiated.

On October 1, 2008, another mandated reporter called to report that stepmother hit the boy on the head with a hairbrush leaving a knot on the back of his head. The child also reported his father putting his thumb under the child's chin and picking the child up by the throat. The father also asked the child if the child wanted to die. He also described

having to stand in the corner for extended periods of time until he had it “perfect.” The child stated that this was “punishment” for lying at school. After again obtaining denials from the family and accusations that the child was a “liar,” The matter was thereafter closed unsubstantiated.

On January 20, 2009, a report came in from a mandatory reporter that the boy had a black eye and bruises to his arm. The bruises to his arm looked like fingerprints. The child reported that the black eye was from walking into a door. He said the fingerprints were from his father grabbing him when he was falling from his bike. The reporting source indicated that the child’s explanations sounded rehearsed. She also reported a pattern that when the child would return from track breaks or extended breaks that he frequently had significant bruising and was always hungry. The case was never opened for investigation and instead was closed out Info Only.

On July 15, 2009, a call came in from a mandated reporter indicating the son had a black eye. The child reported running into a doorknob, but later stated his father hit him. The reporter told the child that she would have to call home to notify them that the injury did not happen at school. The child responded: “Please, no, I’ll get in trouble.” The reporter also noted seeing prior black eyes and bruises, including a black eye three months prior that was blamed on running into a doorknob as well. The son told the source that he did not eat and was forced to stand in the corner the entire prior week (which was spring break). The reporter also indicated that the child eats excessively to the point that he makes himself throw up. It was determined that the son had been sent to the school health office 41 times in one school year, for various issues such as unexplained bruises, inappropriate dress and being hungry. When interviewed, the stepmother and daughter both described to CPS that father had anger issues including “fits of anger.” The stepmother stated that he treats the children harshly and the daughter reported that, at times, she fears him. However, the stepmother denied any abuse and claimed that the school was unfairly targeting the family. DFS thereafter closed the case unsubstantiated.

On November 30, 2009, a mandated reporter called to report that the son had a bruise on his forehead the size of a half-dollar and a linear bruise on his right cheek just below the right eye. The child told the reporter that his father and stepmother had been arguing the night before. The father turned his anger on the son, grabbed him by the neck and pushed his face into a wall causing the bruise to his forehead. When interviewed on to the child expressing extreme fear of the home situation or care giver.

December 1, the son told DFS that his father told him not to talk about what goes on in the home. The son told DFS that his father hates him and that the father wishes [the son] was dead. The father also calls the child “piece of shit” and “fucker.” The child described for the investigator that his father punched him in the back a few days prior and demonstrated for the investigator being hit with a closed fist. He said he fell to the floor due to the force of the blow. The child then described his father placing his head in a headlock so tightly that the child could not breathe through his mouth and had to breathe through his nose. The child reported that his father broke his arm when he was five (5) years old, but claimed it was an accident. The child also reported that his father previously gave him a black eye.

A safety assessment dated the day of the son’s interview indicates that both children

were considered “safe” and therefore left in the home with the parents. DFS marked “no” to whether the behavior of any member of the household was violent. They also marked “no” to the child having a serious injury for which there was no reasonable or credible explanation. They checked “no” to a caregiver acting in extremely negative ways toward the child. They checked “no” to a member of the household threatening serious physical harm to the child. They checked “no” to the child expressing extreme fear of the home situation or care giver.

On February 3, 2010, a new allegation came into the hotline alleging physical abuse against the son. Despite the prior allegation being more than 60 days old, the investigation had not been substantiated or unsubstantiated when the new report came in, alleging a five (5) inch red mark across the back of the son’s neck. On Feb. 7, 2010, the November allegations were finally substantiated. On Feb. 8, 2010, DFS removed the son from the home but left the daughter in the care of the father and step-mother, despite finding the following safety threats in the home:

- 1- The father has been reported to be impulsive, exhibits physical aggressions, has temper outbursts.
- 2- The child is called "bastard, IT, fucker. The child is also told that he looks like his mother.
4. The father minimizes CPS concerns and avoids CPS contact. The father has been reported to stay away from the home when CPS is at the home. In addition, the father has told his wife and both children that they are not to speak to CPS. The father also failed to take minor, . . . or allow the step-mother to take him to a scheduled forensic interview scheduled by CPS.
7. Minor, . . . has expressed being afraid of his father and disclosed he was choked by his father the night before. School staff have reported to CPS that when [minor] has to take a bad notice to school, he is "literally shaking" with fear. The school also reported that when [minor] gets in trouble in school, the father keeps him out for a couple of days.

The case notes reflect that the daughter was left in the home because “she did not disclose any abuse or neglect to Specialist . . .” The next day, after the case was staffed with a senior Deputy DA, the daughter was removed. Both children were subsequently made wards as a result of the Father’s extensive abuse.

**Ex. 64** In May 2009, the District Attorney’s Office, Juvenile Division, received a delinquency submission on an 8-year-old child, alleging that he had committed various sexual offenses. The submission revealed that the child had tied a rubber string around a seven (7) year-old boy’s penis and left it there. It wasn’t until several days later that the victim’s parent discovered the string. By that time, the victim’s penis was swollen and purple and he needed to be taken to the emergency room. In investigating this offense, the detective found out that when the child was seven (7), he tied a string around his own penis while in school and tied a pencil to the other end to the string. He allowed his classmates to see it prior to being discovered. When he was six (6)-years old, this child inappropriately fondled a young girl.

The matter was staffed with the DA, DFS and law enforcement. In the meeting, a determination was made that the matter would be pursued as a child welfare matter, not

as a delinquent matter due to the age of the offender. After the case was referred to DFS, DFS contacted the District Attorney's Office and asked if they could handle the matter informally. With assurances that DFS would ensure that DFS would actively supervise the case and the child would receive the necessary counseling, the DA agreed to informal supervision. Less than two (2) weeks later, DFS closed the case "unsubstantiated." While they received a "promise" from the family to get the child counseling at a local resource center, the center was not qualified to provide sex offense specific treatment. In addition, DFS did not keep the case open long enough to make sure the child's assessment was complete; much less making sure the child received the necessary treatment.

**Ex 65** In November 2009, a matter was set for R&D hearing. The sex abuser pled guilty and was going to prison for 3 years. The psycho-sexual assessment had high risk to re-offend. The Sexual Abuser was the father to 8 year old and Step-father to the victim 14 year old.

DFS recommended case closure with no wardship since sex abuser would be in prison for three years. Mother just started victim counseling 1 week prior to suggested closure. Mother plans to seek full custody in the next 6 months, but does not see a rush since father is in prison. Wardship was not declared (October 14, 2009). Mother never completed the non offending parent counseling and DFS failed to insure her participation.

After DFS recommended case closure and no wardship, DFS received report that the sex abuse victim was suicidal and cutting herself because her mother continued a relationship with the perpetrator (December 29, 2009). DFS had failed to insure the victim's counseling, choosing to close the case for their "numbers". Our Office had to file a second petition regarding the mother's neglect and emotional abuse of the sex abuse victim. Mother ultimately entered a no contest plea to the second petition.

**Ex 66** Original allegations were that mother's boyfriend sexually abused 5 year old girl. Natural mother and Boyfriend improperly supervised 3 year old resulting in child falling out of bedroom window resulting in a fracture to her leg and a skull fracture. Natural mother and Boyfriend have prescription drug abuse addictions. Boyfriend uses marijuana. Natural Father also has drug use issues. Case came in January 2009.

Natural mother had domestic violence issues in May 09 and case plan was amended to include domestic violence counseling. Throughout case mother has been completely loyal to the Boyfriend. On Sept 10, 2009 in court mother and Boyfriend acted as a couple and Boyfriend was allowed therapeutic contact with 3 year old, but no contact with sex abuse victim.

On 10/12/09 Mother broke up with Boyfriend and moved into maternal grandmother's home. Trial home visit started 10/13/09. Case scheduled for 60 day status check on 11/3/09. DFS recommends case closure because Mother and Boyfriend broke up therefore there are no more issues and no need to monitor. The trial home visit was only three weeks old when DFS recommends closing the case. Court report actually recommended continued wardship, but caseworker brought termination orders. Court denied termination.

**Ex 67** On December 2, 2009 DFS received their third report on this family – this one came to the attention of DA's Office after law enforcement responded to the residence on a report of suspected child abuse. One of the children called the police and advised that his mother was beating him. The child reported to officers that his mother had hit him multiple times with a broom. The child was observed to have abrasions to the side of the face, swelling to the arm, numerous scars and cuts to the chest area. The child disclosed to officers that mother frequently hits him and that she always uses an object. The child showed officers a curling iron that mother frequently uses to hit him. Officers interviewed an older sister who confirmed the brother's statements that mother hit him multiple times with a broom. The officer also told officers that mother frequently hits her as well. The sister had no visible injuries on that night. The mother admitted hitting the son multiple times "all over" his body with a broom. Mother also admitted to officers that she regularly hits the children with objects as a means of discipline. Mother stated that she has used the curling iron to hit her son.

The Police arrested the mother for felony child abuse.

he family had two prior contacts with CPS which were unsubstantiated, even though the improper supervision actually was proven.

That on December 24, 2007, DFS made an unannounced home visit to the residence to deliver donations and found children ages 7yrs., 3yrs., 23mos., 2yrs., 7yrs., and 3yrs. home alone without supervision. The children belonged to two sisters. DFS employees waited 1.5 hours and then placed children into protective custody.

On November 9, 2007, DFS received this report "Source reports that two young male children, both approximately three to five years old, are continuously left without supervision and they run the streets. Source has had to pick the two boys out of the street three times in the last week. Source reports that the first time they were found out on Maryland Parkway. Source reports that the yesterday and today they on the property streets; yesterday they were found on Lulu Avenue and this morning they were found on Turner Street. Source reports that the smaller three-year-old male was almost hit by a car today.

DFS claimed that the oldest boy was a problem and since the other children were not direct victims they should be reunified, leaving the son in foster care. DFS employees actively worked to convince the criminal court to modify its restrictions on Mother's contact with the victim contrary to the requests by DA's Office. Dispositional Report prepared by DFS and NIA (Nevada Initial Assessment) contradicted the mother's and DFS' position that the other children were not abused. Despite that information DFS claimed that the Mother's admission of striking the other children and the oldest daughter's admission of mother striking her were the result of a language barrier/misunderstanding. The court ultimately agreed with DFS and returned the three siblings to mother, prior to mother engaging in any counseling truly designed to change her behaviors. We could not resolve the dispute but chose to handle it by saying that we deferred to DFS' assessment of the situation, without saying we supported it.

**Ex 68** On April 6, 2010, DFS received the following report: Yesterday morning (4.5.10 approx 9 am) a person witnessed the mother slap the 4 year old child in the head with an open hand. It was reported the mother was slapping the child "upside" the head several times, the mother was slapping the child while leaving a fitness center. It was further reported the mother was hitting the child hard enough that the child's head was banging against the wall and staff at the fitness center heard the wall being banged. The child was in a crouched position while the mother was hitting her. Source reported the child was refusing to get in the car with the mother. Source reported the mother was telling the child she was embarrassing her." DFS investigation consisted of speaking to the mother who denied the incident took place in the manner described.

On April 7, 2010, DFS investigator attempted to interview the child with the mother in the home and observed the following: A formal interview could not be conducted with child at this time as she would not speak to Specialist. Towards the end of the home visit she did say a couple of things; however she was not comfortable to meet with Specialist. Child appeared to be somewhat fearful of her mother as observed that when her mother went towards her she backed away and raised her arms in front of her face.

Between April 7, 2010 and May 25, 2010, there are no entries regarding DFS involvement with the family. On May 25, 2010, the allegations were finally discussed with the father and he denied knowledge of the specific allegations.

DFS has indicated the case will be unsubstantiated.

The matter was never staffed with the DA's office and it does not appear that the child was examined by a medical professional, despite the repeated blows to the child's head and indication that her head hit the wall. The independent eyewitness testimony would be enough to substantiate a legal case against the mother. There is no indication that the family was referred for any services.

**EX 69** On April 21, 2010, DFS received the following report from law enforcement: Report states law enforcement responded to the home.

Child reported that on Sunday (04/18/10), her stepfather got angry with her and accused her of "looking at boys" at church. She stated that at church, her stepfather pulled her hair to the ground and grabbed her wrist and arms. Her stepfather then started to shove her and told her he would continue this at home. She stated that her stepfather was yelling and screaming at her. She reported that her wrists and her head hurt from her stepfather hurting her.

Child stated that the next day (Monday, 04/19/10), she went to school and spoke with the school counselor. Child reported what happened to the counselor. Due to child having bruises CPS was notified. Source reports that child already had an OPEN CPS case in California due to medical neglect. The mother had refused medical treatment to child.

Child reported that the school told her to go home and wait for a CPS worker to respond to her. Child stated that when she got home, her stepfather and mother were yelling at

her because she wasn't in classes all day. They accused her of ditching. Child stated she wasn't ditching, she was in the school nurses office and spoke with the counselor for most of the day. She stated her stepfather threatened her and made the mother go to the school (on Tuesday, 04/20/10) and find out what happened.

She reported that the school told the mother that a report was filed. The mother told the stepfather and he was angry. He called child on her cell phone at school and threatened her that she would get it when she got home. Child stated that she is tired of being abused by her stepfather, and she was very afraid to go home, so she ran away from home.

On April 22, 2010, the case was assigned to a DFS investigator. It appears that the child is placed with her adult brother with no legal case being filed.

**EX 70** On January 8, 2010, DFS received a report from police officers regarding the following: "Source states that there was an altercation last night between mother and child due to child skipping school. Child told source that her mother pinned her to the wall by her neck, then when child said she wanted to kill herself, mother threw a knife at child's feet and said something to the effect that she should go ahead and do it. Child told source that she picked up the knife and stabbed herself in the thigh two times.

Child currently has the two stab wounds as well as scratches on her neck from her mother pinning her to the wall by her neck. Source states that child was treated at hospital and released to the care of her father.

Source states that mother gave a different version of the events that took place. Mother told source that she pushed child into the wall but she did not choke her, but mother admitted that she might have caused the injuries to child's neck. Mother said that child got the knife herself, mother took it away from her, child took it back, then she stabbed herself. Mother told source that she (mother) had a couple of drinks prior to the incident, however mother was not "buzzed" or intoxicated". Source also states that mother did not appear to be incapacitated.

Source states that mother is being arrested for Child Abuse and Child Endangerment. Mother was released the next day from jail.

Source states that both victim and sibling are currently with their father at the above address. Father told source that he would be taking victim to Montevista, but source does not know what transpired to cause father to make that decision.

DFS continues to work the case. . DFS did not make a referral for a petition. Mother has a DUI from 2009 and was apparently drinking on the night that she physically abused child. Victim also disclosed sexual abuse by mother's current boyfriend (January 2010) and a former boyfriend (at age 9). The sex abuse and physical abuse by mother was reported by the victim to her therapist.

**Ex 71** On February 11, 2010, DFS received the following report :

On 2/5/10, the Mother filed a police report stating that her three children had disclosed that their stepfather had touched them in a sexual manner on numerous occasions. She

indicated that prior to contacting the police she confronted him and kicked him out of the house. As a result of the report all the children were interviewed by a detective.

Two of the three children revealed sexual abuse, with one child indicating that the abuse occurred the night before the police report. One child indicated that the touching began when she was seven (lasting for several years).

Between the report and the date of the memo, the children remain with the mother and DFS has documented numerous problems with finding the mother and the children. In fact, one of the three children still has not been seen by the assigned investigator. (February to June 2010). The children have not been in any documented counseling. In criminal court the Perpetrator entered an Alford Plea to Attempt Lewdness with Child Under 14 yrs of Age. DFS did not submit for dependency petition.

Nevada Initial Assessment could not be completed because mom failed to cooperate with interviews. Safety Assessment done on 2/17/10 identified sex abuse as safety threat but identified mother as protective based on calling police and kicking her husband out of the home. No further safety assessment done in 4 months, especially after the mother failed to cooperate with DFS investigation. The mother is still married to stepfather (married 2006) no divorce records in Clark County and no TPO. Father is in jail awaiting sentencing but no counseling for mother or children.

**Ex 72** On April 24, 2009, DFS received the following report : "Child was upset and stressed today because there was a fight last night at home. During the conversation with source child disclosed that she has been sexually abused by her father on multiple occasions for a few years. Child said that her father fondled her breast and vaginal area on multiple occasions. Child states that she was typically taking Nyquil or Loratab to help her sleep when the incidents occurred. Child indicated that the fondling has been above and beneath her clothing. She indicated that she is not sure if her father has ever penetrated her vaginal or anal area.

Victim was able to give specific details about the abuse. She indicated that her older sister had told her that their father had also touched her. She states that this has

occurred multiple times with her sister. She indicated that older sister reported the sexual abuse to a family friend about a year or two ago. Law enforcement was involved at that time, but older sister did not want to press charges.

Victim indicated that her mother has been aware of the sexual abuse to the girls for a few years. She indicated that she and older sister have each told their mother about the sexual abuse, but mother initially did not believe them. Victim said that she initially told her mother about the sexual abuse a couple of years ago. Victim indicated that her mother now believes them, but had not contacted law enforcement.

DFS had previously received the below report in February 2007 from law enforcement fax received from sexual assault unit. Fax reports the following: That child reported that over the past few years, her father has been sexually assaulting her. Child states that her father would give her some medication to help her sleep and the next day she would have trouble urinating and she would feel soreness in her vagina. She also reported that her younger sister had surgery on her foot and took pain medication before bed. When

sister woke up her bra was undone and her underwear was torn. Sexual assault detectives were contacted and interviewed child. Source reports that victim is consistent with her story after telling four times. She has been a runaway twice and arrested once for battery/ domestic violence. She is sexually active and generated this allegation while staying at a friend's house.

DFS also had this report from February 2006 :

On last night (2/02/06), child was beat up by her father. According to source, the family has a phone rule that the children are not allowed to have phone calls after 8pm. Last night the phone rang at approximately 7:45 pm and child tried to answer the phone. Father picked the phone up and would not allow child to get the phone. Child thought that father was playing and teasing with her so she went over to him and began tussling with him for the phone. However, father was not playing and he became angry with child and snapped on her.

Father chased child around the home and start punching her. Natural mom tried to use herself as a shield between the two of the them but father continued to reach around and ended up hitting child in the face. They all struggled for about 10 minutes until mother was able to maneuver her body so that child could run away. Mother told child to run outside. Then father turned on mother and threw her to the ground by her hair. He started to drag her while she was on the floor but then realized that mother wasn't who he was after. So he ran outside after child who he grabbed by the hair and threw head first into the garage door. Father then punched child in the face and hit her in the

side. Mother then ran up to father and hit him in the head with a text book in an effort to get him off of child. But it did not work and he turned around and started hitting mother again. Father grabbed mother by the hair and threw her down. At this point, mother had the car keys in her hand and unlocked the door for child to get in. Child then locked herself into the vehicle.

The mother and children finally got away after mother yelled at sibling (who witnessed the entire incident) to call the police. Sibling child called the police and they jumped into the vehicle but left before the police arrived. Mother then drove to a friend's house and

called the police. Once the police arrived they escorted mother back to the home and arrested father on two counts of domestic violence.

Despite having all this information – DFS chose not to request that we file a petition. DA's Office learned of case and direct filed before the dispute resolution process was implemented. The perpetrator pled no contest to the sexual abuse petition when the daughter appeared to testify against him. Mother had already physically separated and filed for TPO so she was given further proceedings. DFS did not get a permanency worker assigned after the court substantiated petition for several weeks and as of June their records indicate that the matter is unsubstantiated (although it is court substantiated). The remaining minor victim is now receiving counseling.

**Ex 73** On March 30, 2010, DFS received the following from law enforcement:  
“Source states that the father has felony warrants for domestic violence related incidents. That at 10:33 am this morning police located the father and attempted to pull

him over. That the father accelerated to a high speed and police continued to pursue him in a high speed chase. That the father was driving erratically and jumped curbs more than once while police were pursuing him. That when police were finally successful in pulling him over, they discovered that also in the car were the father's three children and the children's mother, (actually mother of only 2 of the children). That the father appeared to be intoxicated when police pulled him over this morning. That he admitted to drinking four beers this morning. That two empty beer cans were located inside the car. That the mother admitted that she was aware the father was drinking while driving with her and the children in the car. That the father was arrested on his warrants as well as felony child endangerment due to driving erratically and at high speeds with the three children in the car.

DFS records indicate that there was no contact between the assigned investigator and the mother or the children in April or May 2010. In June 2010, the only contacts DFS made were with the mother of the third child in the car. At this time DFS intends to close the case without a petition or staffing with DA's Office. The police records indicate a history of domestic violence between the father and mother (2009 and 2010). The police records also indicate that the Father has serious felony charges in addition to the child neglect/endangerment from the above report. He has attempt murder, kidnap 1<sup>st</sup> degree, robbery with deadly weapon, burglary and coercion with force charges pending. Mother is unemployed and was living at a motel/hotel in March 2010.

**Ex 74** On April 21, 2010, DFS received the following report "Source reports that the incident happened at the father's home last night. 7 year old came to school with bruises on his right arm. The bruising covered a large portion of his lower arm. Child

said he also has bruises on his hip and lower back, but source did not look there. Child said his father hit him with a belt. Father was upset because child did not finish his dinner. Source does not know how many times child was hit with the belt. Child said that he was crying so his mother picked him up and helped him last night." Child said that his father hits him with a belt when he is really angry. If he is not too mad, father just hits child with his hand. Source reports that this is not a daily thing. Source does not know when the last time father hit child with the belt prior to last night. Source is not

aware of child having any marks in the past. Father has told child that this is how he was disciplined, so that is what he will do to him.

DFS records indicate that the child was with the mother and they did not take any legal steps to protect the child from the father despite physical proof that the father had physically and emotionally abused the child. The legal records indicate that the mother and father had the marriage annulled but that the father has visitation and he went to get the child in May 2010. The records indicate that DFS did not refer the father to any services to address the Domestic Violence/Child Physical Abuse.

The abuser appears to maintain unlimited access to the child.

**Ex 75** On April 12, 2010, DFS received a report involving a seven year old girl who had been physically abused, observed domestic violence between her mother and mother's boyfriend and claimed that the mother and mother's boyfriend used marijuana in the home. The report indicated that the subject minor primarily resides with a "grandmother figure" and visits with her mother 1 to 2 days/nights at a time. The report further indicated that the child was struck in the face with a plate thrown by mother's boyfriend during an incident of domestic violence between mother and mother's boyfriend.

When the subject minor was transported to school she informed the person that she hit a door because her mother told her to lie if anyone asked how she received the mark under her left eye. The bruise was observed to be ½" long and bluish in color.

DFS has not intervened in the matter according to notes. The child still apparently lives with fictive kin (no legal documents) and apparently visits with the mother. The assigned investigator spoke to the child and observed the injury. The investigator does not note any contact with the mother or the mother's boyfriend. The investigator does not note any contact with the child since April interview. This is an example of either poor investigation, poor supervision or "informal handling".

**Ex 76** In Jan 2009, perpetrator shook his girlfriend's 1-year-old baby causing subdural hematomas and retinal hemorrhages. DFS intervened to protect the shaken child but never conducted any investigation whatsoever into perpetrator. At the time of the injury to the girlfriend's baby, perpetrator had a baby by another woman. That other woman was also pregnant with his second child. In Feb. 2010, at the time of his release from custody, perpetrator contacted DFS (presumably because a term of his jail release was to comply with DFS). DFS again failed to investigate him in any way and instead determined that since perpetrator was not planning on reunifying with the injured child he had "no accountability on the case." Three months later, perpetrator killed his 1-year-old biological child. Preliminary medical records reveal that at the time of her death, the child had: head trauma and multiple fractures. Multiple bilateral rib fractures, bilateral

clavicle fractures, buckle type fracture left distal diaphysis, non-displaced buckle type fracture proximal left tibia, left retinal hemorrhage (records from ophthalmology not yet received), subdural hematoma with question of acute or chronic bleeds. DFS released a statement to the press stating that they had ensured the safety of the injured child, and denying further responsibility ("We're not a policing agency like that." LVRJ 6/10/10)

**Ex 77** 41-day-old infant was murdered by mother's boyfriend while mother was incarcerated on unrelated charges. At autopsy, it was determined that the infant sustained a right parietal skull fracture and severe traumatic brain injury (acute and chronic), including bilateral subdural hemorrhages, neuronal necrosis, diffuse cerebral edema, subarachnoid hemorrhages, multifocal axonal spheroid of Cajal and cerebral cortical contusional hemorrhages. Infant also sustained acute burns to over 1/3 of his body and was suffering from starvation. At the time of death, infant weighed .2 kg less than his birth weight, he was only one cm longer than he was at birth and his head circumference was 4.8 cm SMALLER than it was at birth. Photos show skin hanging off infant's buttocks where the fatty tissue should be. Currently, we have a TPR trial scheduled for 7/1/10 on infant's sibling, who is 6-years old). Mother was subsequently charged with Child Abuse with Substantial Bodily harm for the injuries to infant.

On March 12, 2010, a report came into the CPS hotline indicating that the mother was engaged to a new man who had two children, ages 9 and 5. The report indicated that mother was living in the home with the children. When interviewed, the new boyfriend indicated that he was aware of the charges but denied that the mother had any role in the child's injuries. He also stated that the mother had watched the girls "once or twice" on her own. However, the paternal grandmother reported that the mother had been "picking the children up at school and caring for them for unknown lengths of time." The father refused voluntary services stating that he had talked to an attorney and was advised that he didn't have to. On 5/21/10 and 6/7/10, the DA's office sought to staff this case with DFS to discuss the safety concerns to the 9 and 5 year old due to the fact that the case was closed unsubstantiated, leaving these children in the care of a person responsible for the abuse, neglect and or death of another child. This case was staffed for dispute resolution between the DA's Office and DFS.

**Ex 78** When infant was 3-months-old, his mother and father engaged in a domestic dispute. Following the dispute, father left infant in the care of the emotionally distraught mother, who yelled that she did not want the child, left infant out in the cold and started throwing all of infant's belongings out the window. Once paternity was established, CPS returned infant to the care of his father. A short time later, father returned infant to his mother despite the mother's clear demonstration of instability. Father reported that he was in "constant contact" with the mother during this time. Thereafter, in Feb. 2008, the mother turned the care of the child over to the child's paternal aunt. The paternal aunt described child as filthy, hungry and wearing a t-shirt as a diaper when she received him. The paternal aunt then turned the care of child back over to father and his new girlfriend.

In May 2008, one-year-old child was taken into care after he was repeatedly and severely physically abused by father's girlfriend, who was five months pregnant at the time. The abuse included extensive whipping with an extension cord, including whip marks across the child's genitals. It took three days following the report to contact the child due to father hiding child from authorities. While child was in the care of DFS, father and girlfriend intentionally misdirected DFS regarding where girlfriend was living in order to prevent their new baby from being taken into care. The new baby was taken into care after DFS was notified of her birth by paternal relatives. Ultimately, the victim and new baby were reunified with father and girlfriend/mother after they completed

portions of their case plans. The case was closed on May 6, 2010 upon the recommendation of the Early Childhood Services therapist.

On June 4, 2010, the now three-year-old presented at UMC with a traumatic head injury, to which he ultimately succumbed. The injury was inflicted by the girlfriend. At the time he was admitted to the hospital, the 3 year old had a cast from a tibia fracture which occurred approximately three weeks earlier. Girlfriend reported that the leg injury occurred at the child's daycare but subsequent investigation determined that the injury occurred in her care. Moreover, upon child's admission to the hospital, girlfriend explained that an abrasion to the middle of his forehead had occurred from a fall 2-3 weeks prior and a bump to the right side of his head occurred 2 weeks prior when child "ran into a table." Father appeared to accept all of girlfriend's explanations without

question, even expressing “shock” to the media when he “discovered” that she was the one who inflicted the traumatic injuries to the child.

Despite Father’s repeated failure to protect deceased child and his failure to protect new baby (by misdirecting CPS re: girlfriend’s whereabouts to avoid her being taken into protective custody), DFS left new baby in father’s care and custody until removed by the court on 6/15/10 at the request of DA.

**Ex 79** On 4/22/10, a seriously endangered child was removed from an abusive parent because the DA was empowered to speak on behalf of the public interest and was not limited by the attorney-client relationship.

On 12/21/09, three-month-old presented at hospital emergency room at the request of the infant’s pediatrician. A report to the CPS hotline indicated that the parents had previously been given feeding instructions for child due to the infant’s failure to gain weight appropriately. Despite the feeding plan, child had only gained 10 oz. in the three months since her birth. The report indicated that the mother was depressed due to the recent death of her one-year-old child, (which was due to a congenital heart defect – not neglect). The report indicated that the mother did not feed infant when she was hungry, pay attention to her or comfort her. The reporter also relayed that the father of infant and step-father of three-year-old is a registered sex offender. It was determined that the father was a Tier One Sex Offender for Attempt Lewdness with a Minor for molesting an 8-year-old girl. The father’s probation officer verified that father was not to have unsupervised contact with anyone under 18 years old.

Upon CPS contact at the hospital, the infant was observed to be small and pale with a distended belly. Infant was observed by hospital staff to be eating well. While the pediatrician had not ruled out an organic cause, it was believed that mother was not feeding the child. Reports dated 12/23 indicate that infant gained 4 oz in the 2 days she was in the hospital and all organic causes for failure to thrive had been ruled out. Investigation revealed that mother confided in a friend that she was lying in bed with one child on one side and the infant on the other. The mother got up to feed infant (who was hungry) and when she returned, sibling had died.

Upon interview, the father admitted a prior diagnosis of Intermittent Explosive Disorder as a teen, and both parents admitted prior meth addiction.

On 12/27/10, the hospital indicated that infant would be ready for discharge from the hospital. She had gained 1 lb. 4 oz. since she was admitted. On 12/28/10, the mother called the nurse to ask about infant’s current weight and asked if it was done on the same scale. When the nurse tried to update the mother regarding infant’s recent food intake, the mother refused to listen and hung up on the nurse. DFS took infant into protective custody, though they left another child in the home. At the protective custody hearing, DFS requested that the child be released home with mom. The DA expressed concerns regarding mother’s mental health and her ability to care for the child. The Court granted DFS’s request over the District Attorney’s objection. The matter was subsequently staffed between the DA’s Office and DFS, in which the DA’s office expressed concerns of possible Munchausen’s by Proxy. On 12/30/10 a nurse expressed concerns that mother was leaving infant home alone with father while she took sibling to daycare.

Infant gained weight steadily until about 1/4/10, and then dropped off. The child was positive for RSV in the interim, but also on 1/18/10 had the distended belly again and would cry if someone touched her belly. On 1/22/10, a DFS worker received a report that the mother would complain of a variety of medical ailments for the infant and even discussed surgery (tonsillectomy, adenoidectomy, g-tube). It was reported that mother had credibility issues and has attention seeking behaviors. It was also reported that the father had been arrested recently and had attempted suicide in the past few days. It was reported that the mother was pregnant again.

On 1/26/10, mother reported to DFS that child told her "Daddy touched my pee pee while sleeping." On 1/27/10, a new hotline report was generated regarding the sexual abuse of child. On 1/28/10, child disclosed sexual abuse in a forensic interview. Following the forensic interview, both girls were taken into protective custody. At the protective custody hearing, both girls were released to mother who had obtained a TPO against father, promised to divorce him and espoused that she would protect.

On 2/24/10, concerns were expressed that the mother was not demonstrating appropriate parenting skills and, if the mother had learned anything, it was not being implemented in the home. DFS determined they would increase the amount of therapy which was done in the home. On 3/1/10, the mother called the worker to report that the infant had undergone surgery to fix a breathing issue. She also indicated that the doctors were considering a G-Tube for infant to resolve her weight issue. A G-Tube was inserted 3/4/10, and thereafter infant began to gain weight rapidly.

A case note on 3/19/10 indicates mother failed to attend her Non Offending Parent class and a case note 3/23/10 indicates mother is in "minimal compliance." Infant was repeatedly hospitalized in February and March for a number of illnesses including reflux, aspiration and ear infections. On April 9, 2010, mother admitted to DFS that she had visited father in CCDC. On 4/11/10, infant was weighed and had lost 1 lb since 3/21/10.

On 4/13/10, infant was again admitted to hospital for purported choking. Hospital staff reported that the child was filthy, mom looked homeless and they were concerned she was "hospital shopping." While in the hospital, infant demonstrated none of the symptoms described by the mother – i.e. – "turning blue," aspirating, seizures or bouts of diarrhea. The hospital social worker indicated to DFS that the doctors did not believe

that infant was safe in mother's care. When interviewed, mother was not able to articulate infant's feeding schedule and claimed to have never been taught to use the g-tube pump. Mother's therapist cautioned that mother was very smart and that mother was capable of manipulating an assessment. She also cautioned that mother needed "consistent therapy because there is a discrepancy between fantasy and reality in her world." Nevertheless, DFS developed a safety plan with the intent of returning infant home.

On 4/22/10, a protective custody hearing was held. At that hearing, DFS represented to the Court that the mother had "finally" come clean, admitted that she had missed some overnight feedings and did not know how to use the feeding pump. But, DFS assured the court that she is now committed to meeting infant's needs and that they would provide supportive services. The DA opposed release to mother, noting the long history

of failure to thrive and how mother has not availed herself of the counseling opportunities afforded her. The DA noted that mom was not attending to her own hygiene and was not feeding infant. Infant was finally brought into protective custody.

Since being removed infant has gained over three pounds. She is bonded to her caregivers and is eating well. On June 9, 2010, infant's g-tube was removed.

**Ex 80** On March 24, 2010, the DA's Office was notified by a Metro Child Abuse Investigator that DFS was allowing contact by a mother, who was charged with murder of one of her children, with the surviving sibling of the murdered child.

In May 2009, the mother admitted to inflicting blunt force trauma to child's abdomen resulting in death. The mother was subsequently charged with the Murder of child. Mother pleads no contest to the abuse and neglect petition. At the time of child's death, he had previously been diagnosed with Failure to Thrive. Accordingly, the father was charged with neglect and failure to protect the children from the mother. On Nov. 30/09, the father plead no contest to the petition and it was agreed that a motion to waive reasonable efforts would not be filed for six months because DFS indicated that it wanted to work with the father to see if they could reunify with him.

On February 14, 2010, the father bailed mother out of jail. The father expressed that he loves mother, he thinks she is a good mother and he wants her to reunify with the children as well, that he believed mother was a good cook and she took good care of the children's nutritional needs, despite deceased child's diagnosis for Failure to Thrive prior to his death. On February 16, the father brought the mother to his scheduled visitation so that she could see the children. DFS allowed the visit.

On April 12, 2010, the District Attorney's Office brought a motion for a no contact order, seeking to cease visitation with the mother. The Court ruled that the supervised visits should stop, but that DFS was to arrange therapeutic visits. In the court report for 5/20/10, the case worker indicated that a referral for psycho-social services was submitted 4/14 and that therapeutic services "will probably start" 5/25. She also noted that "supervised visits" had taken place 4/27 and 5/11. The report also indicated that both parents ceased any and all participation in services on **3/5/10**. The District Attorney's Office will consult with DFS to cease contact immediately.

**Ex 81** In March 2010, a foster parent with five (5) prior unsubstantiated reports, including an institutional report for sexual abuse - was alleged to have severely beaten two children. The report stated that foster parent physically abused two children who were currently in his brother's care. (The brother is also a foster parent for several abused and/or neglected children.) The report stated that both children disclosed being physically abused by foster parent who was allegedly "disciplining" the children for caretaker because caretaker was "tired of dealing with them."

Child disclosed that foster parent whipped him and another child. He also stated that foster parent had previously given child a black eye. When confronted with the fact that there was a prior allegation about foster parent giving child a black eye, child explained that victim recanted because foster parents told them that "what goes on in their homes

stay in their homes.” Foster Parents also told the children that they would make the other children beat them up if they reported abuse.

Child reported that a year prior foster parent had whipped him with an extension cord due to bad grades. Child showed his scars to the receiving team. Child had old scars on his shin and arms. The scars were observed to be looped, big and deep. Child also reported that foster parent had punched him in the face while wearing a ring 6 months prior. Child sustained a bruise on his face as a result of the abuse.

The reporting source indicated that child was extremely afraid when disclosing the abuse. Source reported that it seemed like child wanted to say more, but was too afraid. Child was previously scheduled to be placed at foster parent’s home that night, but child was adamant he did not want to be placed there because he was afraid he would be attacked.

An adoption had been scheduled for 3/10. However, the adoption was stayed pending the investigation of the above allegations and similar allegations being made by the same children against foster parent. One DSF case worker investigated the allegations against one foster parent. A different worker investigated the allegations against the other foster parent. The victim children were removed from one foster parent’s care and a petition was filed and sustained against him on the allegations.

In contrast, the investigator of the companion foster parent case did not document interviews with the victim children or any independent observation of the injuries to those children. Instead, the investigator only documented interviews of the children who were currently in his care. The interviews lasted approximately 10-15 minutes each and were conducted in the courthouse outside the courtroom where the adoption had been scheduled to take place. When those children denied that they had been abused, the case was closed unsubstantiated.

The closure reflects that there was no disclosure of abuse by the children in the foster parent’s care, that the foster parent did not admit to using physical discipline, that there was “no evidence of marks or bruises” and that all the collaterals in the case talk very highly of the foster parent. The DA’s Office asked DFS to review this case.

**Ex 82** The facts of that case are: Petition of sexual abuse of teenager by step-father filed in May 2008. Failure to protect by mother was monitored by the court and later dismissed. Case against step-father was adjudicated in civil and criminal court. Mother demonstrates protective capacity as to the children as reported to the Court by DFS. Father is on probation and actively involved in his sex offense counseling but has 1 - 1 1/2 years left to complete. Family wishes to remain an intact family. The permanency plan is reunification.

The victim has completed victim counseling. She is 18 years old and appeared in court requesting termination of wardship as to her on January 26, 2010, which the court granted. Sibling was previously terminated upon reaching the age of majority. There are two children, ages nine and ten, still remaining in the family home.

There is currently a chaperone agreement in place that allows the father in the home during the day. Overnights are not permitted yet.

DFS recommended case closure arguing the natural mother is protective and the petition as it relates to her is dismissed. DFS represented to the court on 10/27/2009 that there are no safety concerns, the mother is protective, there are no more services to offer this family and that Parole and Probation can monitor.

The DA argued that this is an intact family with the plan of reunification. The perpetrator has not been reunified nor completed his case plan, thus it is premature to close the case. Parole and Probation cannot be relied upon to monitor the family and ensure the safety of the minor children living in the home as the probation officer reported to the DDA that he only goes to the home once every other month, or so. Probation officer also indicated that he only knows if the chaperone agreement is being violated if someone reports it to him.

Ultimately, in March 2010, DFS agreed to keep the case open for the worker to properly document the mother's protective capacity.