

## District Attorney

The prosecutor assigned a child fatality case should have received special training and should be assigned to prosecute the case at the filing stage. Every effort should be made to ensure that the same prosecutor handles the case from the filing through sentencing, a process called vertical prosecution. During the prosecution of the case, it is imperative to consult with other legal professionals including county counsel and the attorney for any surviving siblings. If the surviving siblings are anticipated to be called as witnesses, the prosecutor should use the services offered by the advocates of the Victim-Witness Assistance Program who provide counseling referrals, financial assistance, Kid's Court, and court accompaniment. The prosecutor should determine whether a Court-Appointed Special Advocate/guardian ad litem [CASA/GAL] has been appointed in dependency court. [CASAs are discussed in the Victim Services section of this document.]

According to WIC 326.5, the Judicial Council shall adopt a rule of court to comply with the federal Child Abuse Prevention and Treatment Act for the appointment of a guardian ad litem, who may be an attorney or CASA. This should be done in cases in which a petition is filed or prosecution is initiated based upon neglect or abuse of the child. As of April, 2004, no rule has been promulgated.

A multi-disciplinary effort is the preferred method when preparing for the prosecution of these cases. It is fairly common for the investigating officer and the assigned prosecutor to work closely with one another before filing the case to address many of the issues documented above under the Law Enforcement section including contacting experts, preparing a battered-child timeline, and obtaining medical histories. Prosecutors also participate in case presentation before the ICAN Child Death Review Team and assist in the evaluation of child fatality cases.

## County Counsel

The Children's Services Division within the Office of County Counsel has an internal child death review team, which was created to offer assistance and guidance to an attorney assigned to a child death case. A child death protocol has been established to provide attorneys with office-approved guidelines and procedures. Attorneys handling cases involving a child fatality are expected to be familiar with and follow this protocol. Neither failure to file criminal charges nor dismissal or acquittal on such charges precludes the county counsel from adjudicating the case in dependency court. Vertical prosecution is an important element of the protocol, which includes the following tasks:

- complete a child death report upon receiving the case; forward a copy to the internal child death review committee
- review the file reports to determine the identity, status, and whereabouts of surviving siblings; seek appropriate court orders or modification of existing orders
- ascertain whether the manner or mode of death is accidental; if investigation is warranted, obtain complete medical statements and expert opinions
- determine whether criminal charges are pending for the purpose of sharing copies of all reports, photographs, caretaker statements, physical evidence findings, polygraph statements, tapes, expert opinions, and lab results with law enforcement and deputy district attorneys

- if criminal charges have been resolved, obtain certified copies of minute orders, dockets, and abstracts of judgment to determine the results of the trial and sentencing
- contact the coroner to obtain a copy of the autopsy report and a death certificate
- consult with the attorney representing any child victim or witness regarding the advisability of an interview and evaluation to determine if the child should testify in chambers, attend the funeral of the deceased child, or attend grief therapy or other available counseling
- if the deceased child was a dependent of the court, the attorney should request an order terminating jurisdiction over that child.

## Protective Orders

**I**t may be necessary for the court to rule on appropriate contact/no contact orders consistent with maintaining the safety, protection, and well-being of any surviving siblings or any other children living in the home.

If a criminal protective order is issued in the criminal court pursuant to PC 136.2, it has precedence in enforcement over any civil court order against the defendant if the crime charged involves domestic violence as defined in PC 13700. {PC 136.2(h)(2)}

## DCFS

**T**he first priority is the protection and safety of surviving siblings and other children living in the home or in the placement of the deceased child. DCFS will respond to the discovery of a child's death as follows:

### Child Death While Under the Supervision of DCFS

When a CSW, Supervising CSW, or Duty Supervising CSW becomes aware that a child under the supervision of DCFS has died, the employee shall immediately notify the Child Protection Hotline. If abuse or neglect is suspected, the law enforcement agency in the jurisdiction where the child died shall be notified. {PC 11164 et seq.}

DCFS shall conduct an investigation into the child's death, assess the safety of any surviving minor siblings or unrelated children residing in the deceased child's home, and coordinate its investigation with law enforcement. All internal follow-up procedures mandated by DCFS policy shall be followed, including reporting the death to the Board of Supervisors, the Children's Services Inspector General, the Chief Administrative Officer, the Presiding Judge of the Juvenile Court, the Commission for Children and Families, County Counsel, and ICAN.

### Death of a Child Not Under Supervision of DCFS

When DCFS learns of the death of a child which may possibly be related to abuse or neglect, a referral shall be made to the Child Protection Hotline, and an entry of the death shall be entered in the Child Welfare Services/Case Management System [CWS/CMS], whether the deceased child has any surviving minor siblings or not. DCFS shall immediately cross report the referral to law enforcement and shall conduct an immediate response investigation into the child's death.

The first priority of the DCFS investigation should be the assessment of risk to any surviving minor siblings or children residing in the home of the deceased child. All internal follow-up procedures mandated by DCFS policy shall be followed, including a report of the child's death to the Board of Supervisors, the Children's Services Inspector General, the Chief Administrative Officer, the Presiding Judge of the Juvenile Court, the Commission for Children and Families, County Counsel, and ICAN.

## FOLLOW-UP INVESTIGATION AND CASE MANAGEMENT

**A**gencies responding to child abuse or neglect must follow-up promptly to protect the child and the community. The responsibility for follow-up and case management should be assigned to professionals with child abuse training. The assigned professionals should investigate all avenues necessary to protect the child, collect evidence, and initiate appropriate court action promptly.