

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE FIFTEENTH JUDICIAL DISTRICT

FILED

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COOS COUNTY COURT
COQUILLE, OREGON

In the Matter of Disclosure of)	General Order
Adoption Home Studies to)	06-0304
Court Appointed Special Advocates)	
)	

This matter coming before the court on it's own motion;

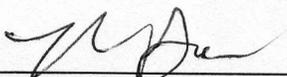
Whereas the court had previously entered a General Order dated January 12, 2004 (attached) on the above captioned matter; and

Whereas the parties involved have now agreed to a Letter of Understanding (attached) on how the above matter will be handled.

IT IS HEREBY ORDERED:

That the attached General Order be vacated and that the Disclosure of Adoption Home Studies to Court Appointed Special Advocated be handled as outlined in the attached Letter of Understanding.

It is so ordered this day 29th of November, 2006.



 Richard L. Barron
 Presiding Judge

cc: ___ DHS Child Welfare/ ___ Coos Juv. Dept./ ___ Curry Juv. Dept./ ___ Coos Court/ ___ Curry Court



Oregon

Theodore R. Kulongoski, Governor

COPY

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August 23, 2006

The Honorable Richard Barron
Circuit Court Judge
Coos County Courthouse
Coquille, OR 97423

Dear Judge Barron:

I am writing to ask you to vacate your General Order, "In the Matter of Disclosure of Adoption Home Studies to Court Appointed Special Advocates", dated January 12, 2004.

I have previously sent you a copy of the new OARs relating to Child Welfare's adoption home study disclosure. There are a few changes, such as adding child's attorney and the child's Tribe (for ICWA cases) to this process. The timelines are also a bit different.

The main concern you expressed was about the section that states we can ask for the Adoptions Program Manager (in Salem) to authorize a "summary" to be released under very certain circumstances. To address this concern, I have spoken with the Adoptions Manager, Lois Day, and have confirmation that for Coos & Curry Counties, after discussing the request for a Summary with the Adoption Manager, we will then request a hearing and have the court make the decision about whether a redacted adoption home study is released or if a summary should be released. The expectation is that this would be a very rare occasion that we would need to pursue this exception.

I have also spoken with Twila Veysey, Coos CASA Director, and Alice Loshbaugh, Curry CASA Director about this. They have both reviewed this letter and are in agreement with it.

I hope this letter, with our commitment to schedule a hearing for a possible exception to request a summary to be released instead of the redacted home study, mitigates your concern. By you vacating your order, this will bring us in line with the rest of the State.

Please advise if you have further concerns. Thank you for your consideration of this matter.

Sincerely,

Nancylee Stewart
Child Welfare Program Manager
Coos/Curry Counties, District 7

cc: Lois Day, DHS Adoptions Manager

Service Delivery Area 7 — Coos and Curry Counties

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COOS COUNTY COURT
COQUILLE, OREGON

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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE FIFTEENTH JUDICIAL DISTRICT
6 JUVENILE DEPARTMENT

7 In the Matter of Disclosure of
8 Adoption Home Studies to
9 Court Appointed Special Advocates

GENERAL ORDER

10 This matter having come before the court on its own motion to expedite the disclosure of
11 adoption home studies to the Court Appointed Special Advocate (CASA) Office by the
12 Department of Human Services (DHS).

13 The court finds that the Court of Appeals has stated that the juvenile court is the
14 "gatekeeper" who determines whether and to whom adoption home studies will be released. *See*
15 *State ex rel SOSCF v. Williams*, 168 Or App 538 (2000), *rev dismissed*, 333 Or 596 (2002); *State*
16 *ex rel SOSCF v. Mitchell*, 182 Or App 402, *rev den*, 335 Or 42 (2002).

17 Now, therefore, it is Hereby Ordered that:

- 18 1. When DHS has selected the adoption home study (ies) to be reviewed by the adoption
19 committee, DHS shall inform the assigned CASA and CASA Program within three judicial days.
20 2. If the CASA requests that DHS disclose the adoption home study (ies) that will be
21 reviewed by the adoption committee, the CASA shall provide DHS with written notice no later
22 than seven judicial days prior to the schedule adoption committee.
23 3. If DHS objects to disclosure of the selected home study (ies) to the CASA, DHS shall
24 inform the Court immediately in writing and request a hearing.
25 4. If DHS does not request a hearing, DHS shall make the selected adoption home
26 study(ies) available to the CASA Program within seven judicial day upon receipt of the CASA's

1 written request to review the adoption home study(ies). In all cases, DHS shall make the
2 requested home study(ies) available no later than two days prior to the scheduled adoption
3 committee.

4 5. In all cases where DHS discloses adoption home studies to the CASA, DHS shall
5 disclose the adoption home study(ies) to the CASA Program Director and the following protocol
6 shall be followed the DHS, the CASA and CASA Program Director:

7 a. DHS shall redact identifying information (such as name, address, name of
8 employer, schools, etc.) and third party information (such as references) from the adoption home
9 study (ies) prior to the CASA's review of it.

10 b. DHS shall provide the CASA Program Director with a redacted copy of the
11 adoption home study (ies).

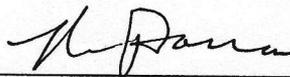
12 c. The CASA Program Director shall retain and secure the only copy of the adoption
13 home study (ies) and no other copy of the adoption home study (ies) shall be made.

14 d. The CASA may review and take notes from the adoption home study (ies) at the
15 CASA Program office.

16 e. The CASA Program Director shall be responsible for securing and monitoring the
17 disclosure of adoption home study (ies) and can at any time, or no later than the close of the case,
18 return the adoption home study (ies) to DHS.

19 f. The CASA shall not redisclose any information contained in the adoption home
20 study (ies) for any purpose other than discussing the needs of the child (ren) with DHS, CASA
21 Program Director, Child's (ren) attorney, court and adoption committee.

22 DATE this 12 day of Jan., 2004.

23
24 

25 RICHARD L. BARRON, PRESIDING JUDGE
26

RELEASE OF ADOPTION HOME STUDY REPORTS

OAR 413-010-0081

General Principles Regarding Release of Adoption Home Study Reports

(This is a new rule, rule number not confirmed)

- (1) These rules (OAR 413-010-0081 to 413-010-0086) establish the Department of Human Services (Department) procedures for the release of adoption home study reports prepared by the Department. The Department will make these reports available only as provided in these rules.
- (2) Adoption home study reports are needed to ensure that children who are in the legal custody of the Department are placed in the care of families who will provide permanency, safety, attachment, and well being. In addition, adoption home study reports prepared by the Department are sometimes used to assist the persons who are the subject of the report to be considered for the placement of children who are in the custody of a public agency in another state or under the jurisdiction of a juvenile court in another state.
- (3) Interpretation of these rules is guided by the following principles:
 - (a) Children deserve to be placed into adoptive families in a timely manner to meet their needs for permanency, safety, attachment, and well being.
 - (b) When the Indian Child Welfare Act, 25 USC sections 1901 – 1935 (1978) applies to a child, the child's tribe will be invited to participate in the selection of the adoptive family. The level of tribal involvement in the selection process may vary from case to case. Tribes that choose to be involved in the selection process need information about the prospective adoptive families.

- (c) The Department, CASAs, children=s tribes, and children=s attorneys, who may have different statutory obligations, work to assure that children in the custody of the Department who have adoption as their permanency plan are placed into adoptive families who can meet their need for permanency, safety, attachment, and well being.
- (d) To ensure that the Department can achieve suitable matches with adoptive families for children who are in the legal custody of the Department and have no current caretaker or potential relative adoptive resources, the Department must make recruitment efforts tailored to the individual needs of the child.
- (e) The Department values the information contributed about the child by CASAs, children's tribes, and children=s attorneys during the process of selecting an adoptive family.
- (f) Prospective adoptive families provide sensitive, personal information to the Department while it prepares adoption home study reports.
- (g) The Department must compare the needs of families for privacy with the need for CASAs, children=s attorneys, and children=s tribes to represent children.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

413-010-0082

Definitions

(This is a new rule, rule number not confirmed)

As used in OAR 413-010-0081 to 413-010-0086:

- (1) An ~~A~~Adoption committee@ is a committee responsible for decisions regarding adoptive placement selections. Adoption committees include staff from the Department, licensed adoption agencies, and community partners knowledgeable about the adoptive placement selection for children. Each of the following is considered an Aadoption committee@:
 - (a) A Central Office Adoption Committee.
 - (b) A Local Permanency/Adoption Committee.
 - (c) Preliminary and subsequent Current Caretaker Committees.
 - (d) A Permanency/Adoption Council.
- (2) ACourt-Appointed Special Advocate (CASA)@ means a volunteer who is appointed by the court, is a party to the juvenile proceeding, and is an advocate for the child pursuant to ORS 419A.170.
- (3) The ~~X~~adoption home study report@ (report) is a document containing an assessment of a family as an adoptive resource, used to determine the suitability of the family to adopt a child in the Department=s custody, in the custody of a public child welfare agency in another state, or under the jurisdiction of a juvenile court in another state. The report is used as a tool to determine a match between the family and a child. The requirements for an adoption home study report are found in OAR 413-120-0200.
- (4) "Third party information" is information provided to the Department by persons other than immediate household members of the prospective adoptive family and includes information from references, employers, and adult children of the prospective adoptive parents, as well as reports from

health and mental health professionals.

- (5) "CET" is a DHS employee who provides consultation, education, and training services to DHS child welfare staff.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

OAR 413-010-0083

Release and Review of Adoption Home Study Reports

(This is a new rule, rule number not confirmed)

- (1) An adoption home study report may be released only to:
 - (a) A child=s CASA, child=s tribe, and a child=s attorney as provided in these rules (OAR 413-010-0081 to 413-010-0086).
 - (b) A public or private adoption agency:
 - (A) A report may be released to a public or private adoption agency if the agency is considering the family who is the subject of the report for adoption of a child in the custody of a public child welfare agency or under the jurisdiction of a juvenile court, regardless of whether the child is under the supervision of the public agency or a private agency providing supervision on behalf of the public agency, if the agency submits a written request for the report and the Department has an authorization for disclosure of the report signed by family members who are the subject of the report.
 - (B) The Department will redact information as provided in OAR 413-010-0084 from the report before releasing the report to a private or public adoption agency if the Department does not have an authorization signed by family members who are the subject of the report for disclosure of the entire report.
- (2) Requests by the family who is the subject of a report.
 - (a) An adoption home study report may be reviewed for accuracy by the family who is the subject of the report if the family makes a written request for the report.
 - (b) When a family who is the subject of a report requests to review the

report, the DHS worker, CET, or supervisor will prepare a copy of the report with third party information removed and make that copy of the report available to the family within a reasonable time for the family to review.

- (c) The Department may not release a copy of the report to the family who is the subject of the report.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

OAR 413-010-0084

Pre-Release Redaction of Adoption Home Study Report

(This is a new rule, rule number not confirmed)

- (1) Before releasing an adoption home study report to a child's CASA, child=s tribe, or child=s attorney, and before releasing a report to a public or private adoption agency without an authorization signed by family members who are the subject of the report, the Department shall redact from the report information that is confidential by federal or state law. Information that must be redacted under this provision includes:
 - (a) Protected health information;
 - (b) Mental health information;
 - (c) Substance abuse information;
 - (d) Criminal record check information; and
 - (e) Social security numbers.

- (2) Before releasing an adoption home study report to a child's CASA, child=s tribe, or child=s attorney, or releasing a report to a public or private adoption agency without an authorization signed by family members who are the subject of the report, the Department may redact in the report to ensure that the prospective adoptive family cannot be identified as a result of the release of the report. Personal information about the prospective family, the disclosure of which would be unreasonable, will not be disclosed and sensitive information provided by others will be protected. Information that may be redacted under this provision includes:
 - (a) The identity of references for the prospective adoptive family;
 - (b) Information obtained from adult children of the prospective adoptive family;

- (c) Names of schools, businesses, or other places or things that could help identify a person named in the report or who provided third party information for the report;
- (d) Dates of birth;
- (e) Last names of persons;
- (f) Addresses;
- (g) Personal identification numbers;
- (h) Telephone numbers;
- (i) Personal information that would likely embarrass members of the prospective adoptive family if the identity of the family became known; and
- (j) Other information that could be used to identify a person, such as a job title, nickname, ceremonial title, a well know achievement or subject of notoriety.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225,418.005, 419A.255, 419B.035

OAR 413-010-0085

Circumstances in Which Release of an Adoption Home Study Report May be Inappropriate and a Summary Should Be Used

(This is a new rule, rule number not confirmed)

The Department may determine that release of an adoption home study report, even if redacted, is not appropriate. In those circumstances, the Department may instead provide a summary in lieu of the full report. The decision to use a summary will be made on a case-by-case basis by the Department's Central Office Adoptions Manager or designee upon recommendation of the Department's local field office staff. Release of a summary is justified when the Department determines that the interest in protecting information in the report outweighs the benefits to the child of a release of a redacted report, and protection of information cannot be achieved through redaction.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

OAR 413-010-0086

Process for Release of Adoption Home Study Report to CASA, Child's Tribe, and Child's Attorney

(This is a new rule, rule number not confirmed)

The following procedures will be followed to effect the release of an adoption home study report to a child's CASA, child's tribe, and child's attorney:

- (1) The Department will inform the child's CASA or local CASA program director, the child=s tribe, and the child=s attorney, as applicable, that the Department has selected report(s) to submit to an adoption committee. The information will be provided as soon as practicable after selection of a report that will be considered by an adoption committee but not later than 10 business days before the adoption committee meets to consider the selected families.
- (2) If the child's CASA, child=s tribe, or child=s attorney want copies of the adoption home study reports on the families that will be considered by the adoption committee, the child's CASA, child=s tribe, or child=s attorney must make a request to the Department as soon as possible but no later than seven business days prior to the scheduled adoption committee.
- (3) The Department will make the selected reports, which have been redacted as provided in OAR 413-010-0084, or a summary of the report as provided in OAR 413-010-0085, available to the child's CASA through the local CASA program director, to the child=s tribe or the child=s attorney as soon as possible but no later than ~~seven~~ business days prior to the scheduled adoption committee.
3
- (4) If the child=s worker subsequently selects another adoption home study report to submit to the adoption committee, the worker will notify the child's CASA, child's tribe, and child=s attorney as soon as possible that the additional report(s) have been selected, even though the three business day requirement in OAR 413-010-0085(3) cannot be met. If the child's CASA, child's tribe, or child=s attorney want a copy of the additional home study, the worker will provide a redacted copy or summary of the report, as

provided in OAR 413-010-0084 and 413-010-0085, prior to the committee meeting.

- (5) Prior to the release of a report under these rules (OAR 413-010-0081 to 413-010-0086), the Department will redact the report following the standards in OAR 413-010-0084 and will release only the redacted version unless the provisions of OAR 413-010-0085 apply, in which case the Department will release a summary of the report.
- (6) The redacted report or summary of the report will be released to the child's CASA through the local CASA program director.
- (7) The local CASA program director must retain the report or summary, keep it secure, and allow the child's CASA to review and take notes from the report at the office of the local CASA program.
- (8) The local CASA program director, the child's tribe, and the child's attorney are responsible for securing and monitoring the disclosure of information in an adoption home study report or summary, may not make copies of the report or summary and may not disclose the report, summary, or information in the report or summary to any person not authorized by the Department rules to have the report or summary.
- (9) The child's CASA, local CASA program director, child's tribe, and child's attorney may not redisclose any information contained in the report for any purpose other than discussing the needs of the child with employees of the Department, the child's CASA, CASA's supervisor, the local CASA program director, the statewide CASA program director, the child's tribe, the child's attorney, the court, or the adoption committee.
- (10) The local CASA program director, child's tribe, and child's attorney must return the report or summary to the Department or destroy the report or summary upon completion of the adoption home selection process.

Stat. Auth.: ORS 409.050, 418.005

Stats Implemented: ORS 409.225, 418.005, 419A.255, 419B.035

- (2) Prior to the release of a report under these rules (OAR 413-010-0081 to 413-010-0086), the Department will redact the report following the standards in OAR 413-010-0084 and will release only the redacted version unless the provisions of OAR 413-010-0085 apply, in which case the Department will release a summary of the report.
- (3) The redacted report or summary of the report will be released to the child's CASA through the local CASA program director.
- (4) The local CASA program director must retain the report or summary, keep it secure, and allow the child's CASA to review and take notes from the report at the office of the local CASA program.
- (5) The local CASA program director, the child's tribe, and the child's attorney are responsible for securing and monitoring the disclosure of information in an adoption home study report or summary; may not make copies of the report or summary and may not disclose the report, summary, or information in the report or summary to any person not authorized by the Department rules to have the report or summary.
- (6) The child's CASA, local CASA program director, child's tribe, and child's attorney may not disclose any information contained in the report for any purpose other than discussing the needs of the child with employees of the Department, the child's CASA, CASA's supervisor, the local CASA program director, the statewide CASA program director, the child's tribe, the child's attorney, the court, or the adoption committee.
- (7) The local CASA program director, child's tribe, and child's attorney must return the report or summary to the Department or destroy the report or summary upon completion of the adoption home selection process.

Stat Auth: ORS 409.050, 418.005