

ANATOMY OF A CASE

EYES OF A CHILD CONFERENCE
BEND, OREGON
AUGUST 2014



Learning Objectives

As a result of this morning's discussion of a case scenario, and this afternoon's presentations by a series of experts, you will:

- Improve your understanding of what information the court needs in order to identify and assess risks related to:
 - unexplained head trauma
 - domestic violence/batterer as parent
 - "old" sex offense adjudication
- Improve your understanding of how to conduct "trauma-informed" court hearings
- Improve your understanding of issues relating to resolution of a dependency case while a criminal investigation/case is pending.

Learning Objectives continued

- Improve your application of correct statutory standards and making appropriate findings at all stages of the case.
- Improve your understanding of what dispositional orders should include as to cases involving child head trauma, parent trauma as a result of domestic violence, a former juvenile sex offender as parent and a batterer as parent.
- Improve your understanding of what you could order to promote child well-being and help prevent placement disruption and failed adoption.

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Judicial Responsibility in Dependency Cases

- Judges must act as “inquiring magistrate” at each hearing, keeping the child’s safety and well-being as the court’s paramount concern.
- Judges must understand the law and make appropriate findings as required by law.
- **Judges must have sufficient training to determine what they don’t know --but need to know --about context to determine what questions to ask and how to determine appropriate interventions and safety planning in complex cases.**
- **Judges must hold participants accountable--and themselves -- to get contextual information necessary from experts in order to make informed decisions.**

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Context

- Context determines the appropriate interventions and safety planning

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The Key Questions Hearing by Hearing

SHELTER – Can the child be made safe in the home until the petition is resolved?

JURISDICTION – Is the child within the court's jurisdiction?

DISPOSITION – What assistance do the parent(s) and child require to address the bases for jurisdiction?

REVIEW – How are the child and the parent(s) progressing, should the case plan be modified, is the concurrent planning appropriate, and should wardship continue?

PERMANENCY – When and where will the child be in a safe, permanent home?

TERMINATION-OF-PARENTAL-RIGHTS – Are the statutory grounds for termination satisfied, and is termination in the child's best interest?

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THE SCENARIO PART



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SHELTER HEARING

- *Conditions and Circumstances that endanger the child's welfare: Can the child be made safe in the home until the petition is resolved? What more information do you want and where might you get it?*



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What is the level of risk to Toby in this situation?

- Besides the unexplained injury, domestic violence is also a risk to the child in this scenario. It will be important to learn more about the extent, context and meaning of that violence in order to assess the extent of the risk.
- What information do you need from an expert?
- Are adults who batter their partner more likely to abuse their children?

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Unexplained Head trauma

- The petition alleges the child's condition and circumstances endanger his welfare because he suffered unexplained serious physical injury in the care of the parents.
- What is the child's medical diagnosis?
 - Is this "Abusive Head Trauma"
 - Could these injuries be accidental and consistent with the explanation given by Donny?
- What information might you need from an expert?
- Was a child abuse assessment done by a specialist? Is that assessment available?

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How should the court conduct the hearing?



- **What information about trauma does the court need to know to conduct the hearing most effectively?**
- **Set a 2nd Shelter Hearing?**



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- Would you find probable cause to believe that Toby's condition and circumstances are such as to endanger his welfare?
- Under ORS 419B.100 (1) (c) the key inquiry is whether, under the totality of the circumstances, there is a reasonable likelihood of a current threat of harm to the child.
- Would you grant temporary legal custody to DHS?
- Would you ask DHS to refer the parents to any services pre-adjudication?
- If so, what services?

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Don't Forget Your Written Findings

“To aid the court in making the written findings required by [ORS 419B.185]” DHS “shall present written documentation to the court outlining:

“(a) The efforts made to prevent taking the child or ward into protective custody and to provide services to make it possible for the child or ward to safely return home;

“(b) The efforts the department made pursuant to ORS 419B.192; and

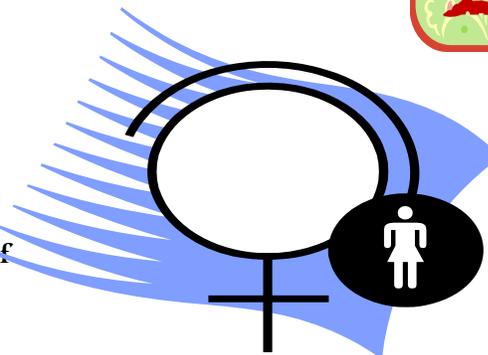
“(c) Why protective custody is in the best interests of the child or ward.” ORS 419B.185(1)

MAKE IT EASY ON YOURSELF: USE MODEL JUDGMENT FORMS JF2 AND JF2I(ICWA)

THE SCENARIO PART



How does this new information impact your assessment of risk to the child in this situation?



Should the Court direct that the petition be amended? To add what allegations?

- Mother's history of sex offending while a juvenile?
- Domestic Violence
- Father's mental instability?

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THE SCENARIO PART



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PRETRIAL CONFERENCE/AMENDED PETITION

- Would you allow the father's criminal case to delay the resolution of the dependency case? Why or why not?
- Is mother's proposed amended DV allegation acceptable? Why or why not?
- How would you conduct a trauma informed hearing?

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What services will the court order for Mother?

- **DV services?**
- **Psychological evaluation?**
- **What should the court require of DHS?**
- **Should mother be ordered to get a restraining order against father?**
- **What does mother need to understand about the child's injury and how can the court help her understand that?**

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THE SCENARIO PART



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MOTHER'S JUVENILE SEX OFFENSE

- Assuming the State's evidence as to past sex abuse is true, is it jurisdictional?
- If key information is missing, what is it and how might it be brought before the court?
- If you do find Toby within the jurisdiction of the court on this allegation, what would you impose by way of disposition?

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JURISDICTION AND DISPOSITION

**BE SURE TO USE LEGALLY SUFFICIENT
FORMS** (E.G., Model Judgment Forms JF3 and JF4B)



What would you impose by way of disposition as to Father for injuring Toby? Contact? Monitoring?



In DV context, issues raised by contact between father and child?

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THE SCENARIO PART



- What could the court have done, if anything, to prevent disruption of this adoption?



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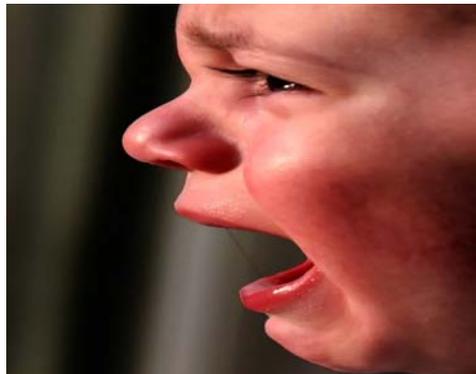
Is there still a way to save this adoption ?



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Should the plan be changed to APPLA?

- If so, what kind of APPLA?
- What role should DHS and the court require the Davidsons to play in Toby's life?



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What services should the court ensure Toby gets?



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Safety...Permanency...Well-Being

