

Broken Families, Broken Courts

San Jose Mercury News
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 San Jose, California



COMMITTEE COMMENTARY

In the *San Jose Mercury News* series “Broken Families, Broken Courts,” staff writer Karen de Sá eloquently focuses public attention on the near collapse of California’s juvenile dependency courts under the combined weight of underfunding and massive caseloads. Dependency courts adjudicate parental rights in cases in which social workers have removed children from their homes. De Sá seamlessly weaves the stories of the key players involved into a poignant, powerful account. Parents describe speaking with their court-appointed lawyer for the very first time moments before presenting their cases to regain custody. Those lawyers discuss how the idealism they once had evaporates almost immediately when they realize the best they can do is triage the cases they are assigned, which often number three or even four times the recommended levels. Judges discuss having mere minutes in which to conduct hearings that may

permanently sever the legal ties connecting parents with their children. Social workers describe cases in which prosecutors persuade courts to ignore recommendations to reunite families. Children relate that they were unaware they could attend hearings concerning their futures. Devoting substantial resources to the series during tough times for newspapers, the *Mercury News* was tireless in its efforts to expose the deep flaws within dependency courts. To do so, the newspaper had to overcome restrictions on access to court proceedings and contend with the threat of criminal sanctions looming over those who discussed proceedings with reporters. Integrating excellent graphics and compelling photos with its outstanding investigative reporting, “Broken Families, Broken Courts” spearheaded reforms in California’s dependency courts that will affect children and their parents in the state for many years to come.



INTERVIEW with Karen de Sá and Rick Tulsky

San Jose Mercury News staff writer Karen de Sá specializes in projects about social welfare and juvenile justice. Investigations editor Rick Tulsky is a lawyer and has spent 30 years undertaking newspaper projects concerning issues of justice and injustice.

How did the series come about?

KAREN DE SA and RICK TULSKY: In 2006, appellate lawyers approached us about their significant concerns about the California dependency courts, the nation’s largest system overseeing cases involving children removed from their homes after allegations of abuse or neglect. The lawyers were concerned that parents were facing the permanent loss of their children in proceedings that failed to protect their rights, having lawyers who failed to investigate, prepare cases, even talk to their clients before hearings.

What resources were required to write and publish the series? What did it take to get them?

DE SA: I worked full-time on the project for more than a year before it was published and continued reporting the story for almost a year after the first articles appeared—a remarkable commitment by the paper at a time of shrinking resources. But editors at the paper recognized the importance of this project and never flinched from devoting the time and space required, including two photographers, a graphic designer to prepare a full-page chart explaining how dependency court is supposed to work, and video clips for the website, in addition to the full-time

efforts of Rick and me. Furthermore, even in these days of shrinking space and tightening wallets, the paper gave the articles tremendous space and play to raise attention to this important story.

How does the series treat or offer insights or perspectives on legal issues and legal institutions, especially in ways not addressed before?

DE SA and TULSKY: The series pulled back the curtain on an incredibly important, but little known, part of the court system, one whose decisions affected the lives and development of thousands of at-risk children throughout California. It was a system with tremendous problems: terrible, poorly funded representation of parents accused of abuse or neglect; terrible representation of the children themselves, who often were excluded from the courtrooms where their fates were decided, often unaware the hearings were even scheduled; and hearings presided over by too many referees, commissioners, and disfavored judges who often were given caseloads so large they had to hear and decide the fate of those children in moments.

What was the public impact of the series?

DE SA and TULSKY: This project has had tremendous impact, which even we could not have foreseen. It continues to be a reference point for reform, more than a year since publication. In Santa Clara County, the home of the *Mercury News*, a new nonprofit has taken over the representation of parents and the district attorney's office has lost its contract to represent the children in these proceedings. Nonjudge commissioners have been removed from the courtroom and a new courtroom was added to reduce the backlog. A state law was passed making sure children have access to their hearings and are presumed to be entitled to

be present. The state judicial council ordered statewide reforms that have reduced the backlogs, reduced the non-judge officers, and improved the representation in counties around the state.

What does winning the Silver Gavel Award mean to you?

DE SA and TULSKY: For the newspaper, the award is of tremendous importance. It reaffirms the newspaper's decision to devote extraordinary resources to doing the project thoroughly and serves as encouragement to continue to undertake such work even as resources dwindle.

EXCERPT

A child's death Judge gets incomplete story leading to a tragic result.

Dependency court judges must promptly make the most critical of decisions. Err one way, and a child may be sent home to a dangerous situation. Err the other way, and children are separated from their families for a life just as chaotic and fearsome. Growing evidence shows disruption can be worse for many children than remaining in their homes with the appropriate support services.

Worse, sometimes judges do not get the information they need.

On Dec. 26, 2002, San Mateo County's presiding juvenile judge, Marta Diaz, got a brutal reminder of that. A baby she had authorized to visit his home had been declared brain-dead. His father was accused of violently shaking him on Christmas day.

A distraught Diaz wanted to know how the system failed 8-month-old Angelo Marinda and how to prevent it from ever happening again. She ordered extraordinary open hearings in the case, where she discovered critical facts she was not told before she ruled Angelo should be permitted to visit home. Diaz never heard, for instance, that Angelo and his sister had been bruised and scratched during previous unsupervised visits with their parents. Nor did Diaz know that Angelo's attorney had not talked to his temporary caregivers, who knew of previous harm to the children.

In her final report, Diaz concluded that the system had broken down, and not just in this case. Too many lawyers fail to meet personally with their clients; rather, they simply "submit" to the findings of the social workers in court, without adding information or correcting the record.

"An agency is not going to stay great without strong advocates challenging them, because that leads to complacency," Diaz said. "The 'submit culture' should have bothered me more. It ultimately poses a threat to the health and safety of children."

The Marinda case is the exception; most dependency cases do not involve physical or sexual abuse. Eighty percent of cases seek to protect the children from neglect, according to state child welfare data. Parents leave children home alone, or with inappropriate caregivers. Binging on drugs or just plain impoverished, they fail to stock the refrigerator. Others

loose their kids when police are called to break up violent domestic disputes.

Occasionally, cases land in dependency court that have no business there—an injured child turns out to have suffered because of "brittle bone disease," not an abusive parent; a sexual molestation allegation is planted by a vindictive spouse. The system is expected to weed out such cases, and for those able to afford private lawyers, it often does. But that may not also be true for the poor.

High caseloads for court-appointed attorneys mean "justice can't be done for cases that deserve it," said Frank Dougherty, a respected Sacramento private attorney and licensed forensic psychologist. "The system as practiced is not designed to protect parents' and children's rights.

"It isn't a matter of turning their backs on the shaken baby, it's that they don't have time to see."



The articles in the "Broken Families, Broken Courts" series, along with related documents, interactive graphics and videos, are online at www.mercurynews.com/dependency.