

## **THE STORY OF BOB AND KAREN**

**By Atty. Michael H. Agranoff**

Bob and Karen are a pleasant young couple with three children, living in a nice suburban environment. Bob has a bit of a temper and got in some difficulty with DCF. DCF investigated, got an order of protective supervision (p.s.), and the couple hired me. All was going well: Bob and Karen cooperated, saw the counselors and therapists assigned, cooperated with DCF and the school, worked well with the children's lawyer, and there were no further problems.

DCF requested an end to p.s. for the two younger children, and of course we agreed. However, DCF also requested a 6-month extension of p.s. for the older child. At a case status conference, I convinced the Atty. General to convince DCF that this was nonsense. Reluctantly, DCF backed down, and we all agreed on a 3-month extension of p.s. without requiring a contested hearing. As part of the court order, a hearing was set in two months to review if the 3-month p.s. should end as scheduled, or should be extended even further.

Then the fun began.

A month after the agreement, and a month before the scheduled hearing, I wrote to DCF and asked if it had any adverse information on my clients, and any reason why it would not end p.s. as scheduled. DCF did not answer. I sent three follow-ups, and asked the child's lawyer to follow up also, but there was no response.

Finally, on the day of the hearing, DCF bagged me with a memorandum saying that it would move for an extension of p.s. It listed several reasons, primarily that the child remained disturbed and maladjusted. It quoted the child's psychologist, psychiatrist, and teacher.

The only problem is that the memorandum was bogus. I personally contacted the psychologist, psychiatrist, and teacher, and all said that the child was fine, the parents were doing well, and most emphatically, DCF involvement should end. I also contacted a therapist who was omitted from the memorandum, and she said the same. In fact, the teacher "quoted" by DCF told me that DCF had never even spoken to her!

I subpoenaed these witnesses into court, and wrote a blistering memo attacking the good faith of the social worker. The child's lawyer supported us also. As trial was to start, DCF backed down; but not before attacking me viciously in open court.

All of this would have been avoided, of course, had the worker simply spoken to the experts in question and heard their current opinions.

The parents, of course, were forced to expend thousands of extra dollars on lawyer's fees and subpoena fees for the witnesses, who still had to cancel other appointments to meet the subpoenas that turned out to be unnecessary.

My belief is that we had a particularly vicious worker in this case, one who actively disliked attorneys, and a management still resenting the fact that it had been talked into lowering the prior p.s. request in the first place. Literally thousands of DCF dollars, which of course is taxpayer money, were wasted on sheer vindictiveness. It is true that many parents and guardians are less than honest; but sometimes it is the other way around.

It is frightening to contemplate what might have happened. DCF might have moved to extend p.s. yet again, and would have driven this couple crazy, to the point where Bob might have lost his temper again. The kids could have been seized, and we would have a real nightmare on our hands. All because of failure to be reasonable.

### **NATHAN**

Nathan's case illustrates that you have to keep your eye on the ball.

Nathan and his wife, Alberta, had two sons. Let us say that Nathan and Alberta could not get along, and custody of the boys was transferred to an aunt. In the meantime, Nathan had been arrested for domestic violence and violation of a protective order.

Nathan was getting his life back together. Always fully employed, he had now stopped drinking, was actively in counseling, had finally divorced his wife, was behaving himself, and was well on the road to recovery.

In the course of initial discussions, I asked Nathan if he was involved in any other court. Yes, he was being prosecuted in criminal court, and with his past record, he was going to get 15 months in jail. His criminal lawyer was proud that she had gotten a deal for that little time. Of course, that jail sentence would end his employment and his visitation with the boys, and would effectively ruin his life. Since the criminal charges were so tied to the DCF charges, which were thin at best, I wondered why this plea bargain was so severe.

Nathan gave me a release to speak to his criminal lawyer. She was not familiar with the Juvenile Court aspects of the case, and insisted that they didn't matter. I pressed her on this, but she refused to listen.

Further, Nathan's probation officer from the prior criminal case spoke very highly of Nathan and was willing to testify that he had rehabilitated, and that further jail time would serve no useful purpose. Unbelievably, the criminal lawyer had not even checked with him. Further, the criminal lawyer did not check with other references, such as Nathan's employer and certain family members who knew the history of the matter and the ex-wife's violence.

It turned out that the defense lawyer was plea-bargaining Nathan's life away, because she feared that he didn't have enough money to pay her beyond the initial retainer.

I replaced her in criminal court, reviewed the case in detail, talked to potential witnesses, spoke to the prosecutor, and wrote a brief for the pretrial. The lawyers spoke to the Judge and reviewed the evidence. Nathan eventually pleaded guilty to a minor felony and got probation, with no jail time. His two children have been reunited with him, not his ex-wife, and they are doing well.

As previously noted, juvenile cases sometimes turn into criminal cases, and vice-versa. The Juvenile Court lawyer should at least be familiar with criminal procedure; and also vice-versa.

Nathan's former criminal lawyer is still practicing law.

## **SIMONE**

Simone had made mistakes in her earlier life, getting involved with a violent man and abusing substances. Her child was taken away. She tried valiantly to recover, but got no help from her court-appointed lawyer. Every time she spoke to the lawyer, which was seldom, the lawyer simply said, "Sign whatever DCF tells you to sign."

Then DCF filed a motion to stop her visitation. The motion was heard in court, her lawyer called no witnesses, and visitation was stopped. Simone could not even get medical reports on her child. She saw me, I explained that she was on the fast track to TPR, and she hired me to replace the other lawyer.

I sought an immediate treatment planning conference at DCF. The DCF worker and the child's lawyer both showed up. DCF was wonderful, agreeing to all sorts of reasonable services, with the goal of eventual visits and possible reunification.

Then everything stopped. More than two months after the conference, nothing was happening. I filed a motion in court to compel DCF to act, and then learned that the social worker had been "out sick". I asked why no one was covering for her, reading her faxes and e-mails, and returning lawyer's correspondence, and I got no answer. I am still waiting.

What actually happened is that a DCF manager (actual identity unknown to me) had decided that the parental rights would be terminated. When DCF makes this decision, it normally ceases cooperation with the client and lawyer, regardless of any court order or lack thereof. By going to court, we got DCF to agree on the record to cooperate, and let the Judge know what was going on (all Judges, of course, are well aware of DCF's attitude, even if they can't always do anything about it).

The point again is that it is often difficult enough to fight DCF with a lawyer. Without a lawyer, it is impossible. And with a non-functioning lawyer, it is impossible and wasteful.

Of course, if the press and public were aware of this, the situation could change overnight. Imagine if a criminal court defendant in a public trial were denied his rights; the newspapers would have a field day for months. Yet termination of parental rights is a parental death sentence, worse than most criminal convictions; and the public is blissfully unaware.

Sadly, the case did not have a happy ending. Simone simply could not take it any more and just gave up. TPR quickly followed.

It may be said that DCF did the right thing after all. Perhaps; but we shall never know. Had DCF not precipitously decided to file TPR and cease cooperating, this family might have successfully reunified.

It takes a lot of will power for some people to fight the entire State of Connecticut.

### **MILLICENT**

Millicent is a hard-working, blue-collar, religious, law-abiding woman who is raising four children: two of her biological children, and two younger cousins.

Everett is another younger cousin of Millicent's. His parents were drug addicts, and Everett himself was born addicted. Eventually the parental rights were terminated, and Everett went to live with Millicent. Due to his troubled background, he constantly exhibited behavioral problems, such as oppositional defiant disorder, bipolar disorder, and anxiety disorder. He could be quite unmanageable at times, totally out of control, refusing to attend school, and even threatening to kill people.

Millicent did what she could to get help for Everett. As is usual in Connecticut for lower-income people, that help was inadequate; although to be fair, it is often worse in other states. Millicent, with no lawyer, and a busy life otherwise, tried her best to contact people on the phone, and was constantly shuffled about. Everyone made promises, some helped for a time, then funding stopped, new promises were made, etc.

Millicent experienced the frustration that only lower-income people who rely on government help can understand. The rich, of course, can send their problem kids to out-of-state boarding schools. Others cannot.

After about three years, DCF filed a Neglect petition, and the case went to Juvenile Court.

Millicent was given a court-appointed lawyer. She was told that if she "signed something", then Everett would be temporarily taken into State custody and helped with his mental problems; otherwise, he could not be helped. And further, once he was helped, he would be returned to Millicent and to his cousins.

Millicent signed and Everett was taken. **He never again returned home.**

What Millicent actually signed was a "Nolo plea", saying that the child had been living under conditions injurious to his health. Along with that plea, she agreed in court that the child would be committed to DCF. Millicent did all this under the impression, as advised by her lawyer, that the child would be helped by the State, and then returned to his family.

That, indeed, could have happened; but did not.

The State of Connecticut, through DCF, unbeknownst to Millicent, and probably unbeknownst to Millicent's court-appointed lawyer as well, had a contract with an organization known as a "professional foster care" agency. We will pretend that that agency was called "PFC".

Under the contract, DCF paid PFC to place very disturbed foster children with so-called "professional" foster families. These professional foster families supposedly received special training to enable them to handle the difficult kids. The families also received a considerable stipend, which in one case that I am familiar with was the incredible sum of \$2,000.00 per child per month, as opposed to the normal \$800.00 or so per month. It is reasonable to suppose that DCF was paying for this stipend, as well as for PFC's administrative expenses.

PFC, in other words, was a repository for DCF's most difficult foster children. And Everett was one of them.

PFC thus had a huge financial stake in preserving what was essentially a cash cow. It had no incentive to return the kids to DCF and give up this money.

After Millicent fired her court-appointed lawyer and hired me, I attended an education meeting for Everett, along with Millicent and all the service providers. At one point, Everett's school social worker said that "the plan for Everett is long-term placement with a professional foster care family." I asked her who told her this, since the Court approves permanency plans, and one had not yet been approved. Before she could answer, the woman seated next to her glared angrily at me and said, "I told her." I asked her who she was, and she replied that she was with PFC.

When I attempted to tell her that PFC did not set policy, the DCF social worker cut me off, saying that that was not the purpose of the meeting. And indeed it was not. But the point is clear: PFC was protecting its cash cow. And DCF was not standing in its way, as it was only too happy to dump off the kids that it was unable to handle.

And the taxpayers were none the wiser.

This was a first for me. The Court makes the decisions, although many DCF workers think they do, and I am used to that. However, this was the first time that I had seen a foster parent service thinking (in fact, insisting) that they made the decision.

PFC provided letters that Everett was doing much better in its care. Those letters were, of course, written by PFC's full-time psychiatrists and psychologists; and, needless to say, recommended Everett's continued placement in the foster care program. The potential conflict of interest is too obvious for comment.

I myself could not determine if Everett was actually doing better. I never met him, and his court-appointed lawyer (the same one as in the "Story of Nicole") also did not meet with him, let alone share any thoughts with me. I do note that Everett's school social worker herself wrote a letter detailing numerous psychological problems, and DCF also admitted that Everett had blown several foster placements. Whether or not he was "doing better" was far from obvious, although it was super-obvious that DCF was happy to foist the problem onto another agency.

DCF stated that Everett was bonded to his foster family. Millicent, however, said that Everett had told her that he wanted to come home. I asked Everett's lawyer for independent corroboration. He never answered.

DCF duplicity in this case reached the point of hilarity. The DCF social worker kept insisting that Millicent never called Everett at his foster home, and therefore wasn't interested in him. I got her to admit, finally, that Millicent had not been given his foster home phone number, for "policy" reasons. The DCF social worker was not fazed. She knew that the system would back her up, and it did.

Finally, I secured phone call rights for Millicent. But it was obvious that DCF never had any intention of "treating" Everett and then "returning him home" as originally promised. Millicent, of course, was never told any of this by DCF. Human rights, indeed.

Millicent finally gave up. She could not afford the psychological or financial toll of this case. She was hardly the first. And she adamantly refused to seek another court-appointed lawyer.

*Footnote:* I asked DCF to provide me with the full details of its contract with PFC. DCF replied that that contract had now been terminated.

*Additional Footnote:* An article in the Hartford Courant, on 11/30/05, discussed another DCF contract, this one to a group home that was eventually closed by the State due to extreme incompetence. DCF had not adequately supervised the group home, just as it had not adequately supervised PFC. But this sort of thing is common when big dollars are thrown about by a large and difficult-to-supervise bureaucracy. It will probably never end, until and unless we get open, public trials of DCF matters. Clients and their lawyers simply must beware.

People who try to voluntarily get help from DCF without a lawyer, as Millicent did for several years, take their psychological lives in their hands.

## **MYRTLE**

Myrtle was one such person. She married Morton, and they had a daughter, Chloe. Morton sexually abused Chloe as a young child. Myrtle found out and divorced him. However, due to evidentiary problems, Morton was not prosecuted.

As is extremely common in these cases, Chloe began acting out later in life. Myrtle remarried, had another daughter, and Chloe became sexually aggressive against her younger half-sister. Myrtle had to do something, and sought DCF voluntary services.

Chloe was placed in a residential facility. She kept getting into trouble, and hauled into delinquency court. Myrtle was continually badgered and harassed to come to weekly meetings, at which nothing happened, and was chastised for "not taking more responsibility". When she protested, DCF threatened to terminate voluntary services, and turn Chloe out. The problem, of course, was that Myrtle could not afford to have Chloe at home with her younger daughter.

The toll that all this was taking on her second marriage is obvious. And Chloe was still not being helped.

DCF was not evil. This sort of thing routinely happens when services are oversubscribed, and service providers cannot possibly meet their expectations. They will, almost subconsciously, discourage people from seeking help.

And the State Legislature, which thinks that children are being helped, is none the wiser.

Finally Myrtle saw my web site and called me. I wrote to the residential facility and organized a meeting of all the players. This included Chloe's court-appointed lawyer, who, incredibly, had not known that she was still on the case! It also included a staffer from the State Child Advocate's Office. That, and a few more letters, did the trick. The harassment of Myrtle stopped, and the facility actually found a better-equipped residential facility for the child.

Subsequently, however, things exploded. Chloe's mental health issues could not be resolved, and she continued to get shunted to different mental hospitals and residential facilities. Truly a sad case. DCF wanted to drop her and return her to Myrtle, who was completely ill-equipped to handle her. However, after numerous written complaints to the DCF Commissioner, and Chloe's lawyer, we were able to secure decent treatment for Chloe. Of course, there are no guarantees for the future, and if Chloe has to be committed as an adult for her own good, so be it.

We are hopeful. And Myrtle has learned to be cautious. She will sign nothing, and agree to nothing major, without checking with me first. I have made contact with the new facility, and we are aware of each other.

As a side bonus, we got Morton to start paying back child support. Myrtle had tried to get the State to do that, again without success.

Matters sometimes reached comic proportions. At one point, the State placed Chloe in a youth facility in South Carolina. Chloe had needed a trip to the hospital, an ambulance was called, and South Carolina kept dunning Myrtle for the money. Myrtle called her DCF social worker, who did nothing but shuffle papers. Finally I wrote to the DCF Commissioner and the South Carolina Attorney General, and the harassment stopped. I did nothing that the State could not have done just as well; but the State preferred that Myrtle pay me to secure her rights.

But such is the life of people who try to deal with an exasperating bureaucracy. And this is not a criticism of any individual worker, many of whom are true heroes who deserve recognition that they will never get. The system is, simply, overburdened; and the State refuses to do anything other than hire overpaid out-of-state consultants who have an academic approach to life.

### **Harry and Pam**

Harry and Pam found out the hard way. Their daughter, Erika, who was a bright and lively child, suddenly starting acting out at the age of about 8. They sought help, and were told to apply for voluntary services.

They kept getting conflicting information from people, and their phone calls were seldom returned. It was a frustrating experience for busy blue-collar people unused to the ways of bureaucracy. DCF said that they never followed through, but Harry and Pam insist that they were told not to apply. The truth will never be known. What is known is that this was as frustrating as trying to work through the new Medicare prescription drug benefits; it can be done, if you have legal training and the patience of a saint. Few do.

DCF, always worried that a federal monitor will blame them, took the offensive. DCF filed a petition claiming that Erika was neglected by Harry and Pam. DCF claimed that Harry and Pam "minimized" her problems (DCF's favorite buzzword), even though DCF's own records showed a 3-year-history of the parents' attempts to get help. Finally the parents called me.

The case went to Juvenile Court. DCF forced Harry and Pam to get psychological evaluations, and the Court backed them up. DCF turned a relatively simple matter into a complicated one. However, the girl is only 11, and she may yet be helped.

It is sad that a voluntarily services case ended up as a court matter. However, blue-collar people trying to fight an entrenched bureaucracy are at a distinct disadvantage.

### **The Social Worker's Dilemma**

Social work is an honorable calling. Most workers are excellent, and have the chance to do enormous good. Sadly, they are frustrated by interminable procedures and regulations and "political realities" emanating from a variety of different agencies. That is why successful bureaucrats are usually called "survivors" rather than "achievers".

Dealing with bureaucracy is, in the words of President Eisenhower, like trying to wrestle a whale – you can never get hold of the blubber.

*Advice:* it is actually cheaper, in the long run, to hire a lawyer when you are dealing with oversubscribed State services. I truly regret that I had not seen Millicent when the trouble started.

### **ABBIE**

Abbie illustrates the old bureaucratic dictum that there is nothing so simple that it can't be made difficult.

Abbie is a kindly and hard-working woman. She had a daughter who, unfortunately, had mental problems. The daughter chose a life of drugs, crime, and abusive men; and DCF quite properly removed her children.

Abbie came forward to raise one child, Melody, five years old. Melody and Abbie were bonded anyway, Abbie had a spotless record, and public policy favors relative placement if possible. All was set, and then one thing happened: a social worker noticed that Abbie had a 10-year-old son who was autistic and was going to special schools. The worker challenged Abbie, saying that she could not ensure Melody's safety while an autistic child was also in the house.

Abbie exploded. She was a simple and honest person who had always fought for her son every step of the way. Now, she reasoned, instead of being commended for her actions, she was being punished. As usual, her anger at the State worker only made matters worse, and DCF decided that Melody could not be placed with Abbie. If Melody's termination went through, then she would be adopted by strangers.

Abbie also tried to intervene in the Juvenile Court. The Judge postponed the matter, but Abbie did not understand and asked. The social worker told her that the motion had been denied! Abbie was devastated.

Fortunately, Abbie had a friend who had heard of my work with DCF, and she called me. I discovered that the intervention motion was to be heard in a few weeks. We secured letters from six people, including a former social worker, teachers, and health care professionals, that Abbie and her autistic son were doing fine, and that there was no problem. We also secured letters describing Abbie's bond with Melody. These letters were presented to the Court, the Attorney General, and Melody's lawyer. Then three wonderful things happened: Melody's lawyer

supported us on the spot; the Judge granted Abbie's intervention over DCF's objections; and DCF suddenly did a complete turnaround and agreed to support Abbie's adoption of Melody.

On the face of it, this was a no-brainer. Not really any more complicated than a simple refinance transaction with one mortgage to pay off. And yet this child Melody might have been scarred for life because a faceless, cowardly, angry bureaucrat let her prejudices and her pique interfere with her duty.

Side Note: I said that Melody's lawyer supported us right away. In fact, he did more than that: he told me that he wondered why this was an issue at all, since DCF should have supported Melody's adoption by Abbie in the first place. I thanked him. And yet, it had not occurred to him to fight for this on his own, because he would have had to challenge DCF (at impossibly low State-paid rates) on behalf of a grandmother who had not then bothered to secure a lawyer.

Moral Again: Do not challenge DCF without a lawyer.

## **DOROTHY**

Dorothy had a troubled childhood. As an older teenager, she met a guy, got pregnant, and was totally unsuitable as a mother. Her children were removed, and she was pressured to agree to a voluntary termination of parental rights (TPR). She agreed, the kids were permanently removed, and that was that.

Later, she grew up. She met a decent guy and they had two children. They were not an educated couple, but they were thoroughly decent people, and the children were strongly bonded to them. The older one, a boy of 5, was doing fine. The younger one, a girl of 2, was born with certain medical problems. Dorothy took her to the family doctor and the various specialists religiously, and the girl was making excellent progress.

As with all couples, Dorothy and her husband had an argument. It got a little out of hand, and the police were called. The children were not involved in any way. But DCF got involved, and pressured Dorothy's husband to live outside the home until the criminal case was resolved.

It was resolved with probation, and the husband would be allowed to move back in three months. Meanwhile, he could see the kids all he wanted, with Dorothy's sole supervision. (This means that DCF did not believe that there was any serious threat). I had both parents and the kids in my office a few times, and the bond between parents and children was obvious.

One thing about kids: they haven't learned to lie about relationships. You can't fake a bond.

DCF assigned a very good and caring social worker to the case. He quickly verified that Dorothy indeed was taking good care of her sickly daughter. He arranged (at my suggestion) free psychological counseling for the husband. All was going well, and I looked forward to a successful resolution at minimal cost.

Then, out of the blue, DCF filed a neglect petition against the couple in the Juvenile Court. The reason, as the social worker told me privately: DCF had a "policy" that anyone being investigated, if there was a prior TPR, would automatically have a petition filed against them. The facts of the case made no difference. He was supremely apologetic, but had his orders.

I knew better than to ask who made this policy.

The petition itself was a prodigy of misstatements. However, DCF can (as of this writing) get away with that, since social workers are not lawyers, and are not bound by good-faith pleading rules as lawyers are.

The case eventually settled, and the family has been reunited. The children no longer cry for their father.

The Moral: If you have an argument with your partner, do it in private. And be especially careful if DCF knows your name.

I will add one personal note. Most people in prison were abused or neglected as kids. That will not happen with these kids, who are loved and well cared for. That is, so long as DCF is not allowed to harrass the family.