

Child Safety Issues when Sex
Offenders are involved in Juvenile
Dependency Cases

VIEWS FROM THE BENCH

Sex Offenders in Dependency Cases

- ❖ Part 1: Jurisdiction and Reunification:
Understanding the Legal Landscape
- ❖ Part 2: CRB Findings: Visitation Plans,
Reasonable Efforts and Parental Progress
- ❖ Part 3: New Disclosures of Abuse

Part I

Jurisdiction and Reunification

The Legal Landscape: Jurisdiction

- ❖ Why it matters.
 - Services provided toward reunification must be rationally related to jurisdiction, and provide the parent the opportunity for the parent to adjust his or her conditions or circumstances.
 - A parent's progress is judged against what is admitted or proven when jurisdiction is established.

Jurisdiction

- ❖ Conditions and circumstances jurisdiction: ORS 419B.100(1)(c).

State must show:

- A current threat of serious loss or injury to the child.
- A nexus between the allegedly risk-causing conduct and the harm to the child.
- The risk is present at the time of the hearing.

Jurisdiction over Sex Offenders

- ❖ These facts alone are not enough to show risk of harm to child:
 - Parent's status as a sex offender;
 - Parent's failure to engage in treatment.

Jurisdiction over Sex Offenders

❖ State must show:

- Current risk of harm
 - Expert testimony based on a current assessment of parent's risk may be sufficient to show that past sex offending behavior and failure to engage in treatment present a current risk of serious harm.

Jurisdiction

❖ Examples:

- *Dept. of Human Services v. G.J.R.*, 254 Or App 436 (2013).
- *Dept. of Human Services v. M.H. and B.R.*, 256 Or App 306 (2013).

Changing the Permanency Plan from Reunification

- ❖ General rule:
 - At the permanency hearing the state must prove:
 - DHS made reasonable efforts, and
 - The parent made insufficient progress toward reunification.

Changing the Permanency Plan from Reunification

- ❖ At the permanency hearing, the court may order the parent to participate in specific services for a specific period of time if the court determines further efforts will make it possible for the ward to safely return home within a “reasonable time”.
- ❖ “Reasonable time” is based on the child’s emotional and developmental needs and ability to form and maintain lasting attachments.

Changing the Permanency Plan from Reunification

❖ Example:

- *Dept. of Human Services v. N.S.*, 246 Or App 341 (2011).

Jensen Decision Making Matrix

- ❖ To fit cases within the matrix, expert testimony may be needed to establish the level of risk.
 - The state has the burden of proof.
- ❖ A non-offending parent's failure to acknowledge and protect against the risk from another is a factor the court can consider when assessing parental progress, provided this issue is part of the basis of jurisdiction.

Jensen Decision Making Matrix

- ❖ Key Inquiries for Court/CRB:
 - What do we know about the sex offender?
 - Treated/untreated?
 - Current psychosexual evaluation?
 - Amenable to treatment?

Jensen Decision Making Matrix

- ❖ Key Inquiries for Court/CRB:
 - Is there an available parent that acknowledges risk and is willing to protect?
 - How vulnerable are the children in the home?
 - Age
 - Prior victimization

Part II

CRB Findings: Visitation Plans, Reasonable Efforts and Parental Progress

Visitation Plans: the Basics

- ❖ What is DHS required to do?
 - Ongoing Safety Plan
 - Describes safety threat;
 - Describes how safety threat will be managed;
 - Can't use a parent or caregiver who is the alleged perpetrator of sexual abuse to provide protection;
 - If the plan is out of home, DHS must arrange for visitation.

Visitation Plans: the Basics

- ❖ Overarching Principles:
 - Best interest of child;
 - Promotes attachment;
 - Continues relationship;
 - Safety and child well-being are the paramount concerns.

Visitation Plans: the Basics

- ❖ Parents and children have right to visit as often as reasonably necessary to develop and enhance attachment.
- ❖ DHS will prohibit or cancel visits:
 - There is reason to believe parent's acts or omissions would result in abuse or neglect during the visits;
 - The child's safety can't be managed by supervision;
 - Visit does not meet child's best interests.

Visitation Plans: the Basics

- ❖ Caseworker must develop Temporary Visit and Contact Plan when the child first enters substitute care or at the shelter hearing, whichever is first.
- ❖ DHS has 30 days from date of child's entry into care to develop an Ongoing Visit and Contact Plan.

Visitation Plans: the Basics

- ❖ Visits must be provided in the least restrictive manner in which safety can be managed.
- ❖ A plan that prohibits visits must include the reason for the prohibition and state, if applicable, the conditions under which DHS would begin or resume contact.

Visitation Plans: CRB Findings

- ❖ Adequate Visitation Plans are considered under:
 - Finding #3: Services to the child
 - Finding #4: Reasonable/active efforts to help the parents work toward reunification.

Visitation Plans: CRB Findings

- ❖ Key considerations:
 - Has the caseworker followed DHS policy in developing the visitation plan?
 - What was the child's level of attachment to the sex offender prior to entry into care?
 - Is the child a potential victim, and would further contact create stress and trauma?
 - What assessments have been done on the alleged offender to determine level of risk?

Visitation Plans: CRB Findings

- ❖ Finding #3: Services to the child.
- ❖ Key inquiries:
 - Does the level of visitation meet the attachment needs of the child?
 - Is the visitation adequately restricted to assure the child's safety, health and well being?

Visitation Plans: CRB Findings

- ❖ Finding #4: Reasonable efforts (services to parents).
- ❖ Key inquiries:
 - Is the level of visitation sufficient to maintain the relationship?
 - Is it offered in the least restrictive manner in which the child's safety can be managed?
 - If it is prohibited, is there a statement in the plan of what conditions must exist for visitation to begin.

Reasonable Efforts: Finding #4

❖ Key inquiries:

- Conditions of return
- Visitation
- Services for offending versus non-offending parents

Parental Progress: Finding #6

❖ Key Inquiries:

- Participation in assessment;
- Follow through with treatment recommendations;
- Compliance with safety plan;
- Understanding/acknowledgement of risk.

Reunification: CRB Findings

- ❖ Finding #10: There is a continuing need for placement.
 - Have the conditions of return been met?
 - What is left for the parent to do before the child can go home?
 - Are there cases where reunification is never appropriate?

CRB Recommendations

- ❖ Visitation.
 - Examples:
 - DHS revise the Ongoing Visit and Contact Plan within 14 days to:
 - take into consideration the safety concerns identified in Father's psychosexual evaluation.
 - State the conditions Mother must meet in order to begin visitation with the child.

Part III

New Disclosures of Abuse

Sex Abuse Allegations

- ❖ Against:
 - Foster parent;
 - Parent;
 - Another foster child or sibling;
 - A person not related to the case.

Sex Abuse Allegations

- ❖ Dependency Case.
 - ❖ Services for the child.
 - Child Abuse Assessment Centers
 - Counseling
 - Safety planning
 - Placement decision
 - Appropriate visitation
- ❖ Criminal Case.
 - Evidence
 - Burden of proof

Sex Abuse Allegations

- ❖ Key inquiries:
 - Have appropriate services been provided to the child?
 - If the allegation is against a parent, what is DHS doing to assess risk? Are visits being adequately supervised/restricted pending risk assessment?
 - If the allegation is against another person in the foster home, what has been done to protect the child from further risk?

Sex Abuse Allegations

❖ It's a delicate matter. Avoid:

- Asking for specific facts about the incident.
- Specific questions for the child about how he or she feels.

Sex Abuse Allegations

❖ CRB recommendations:

Examples:

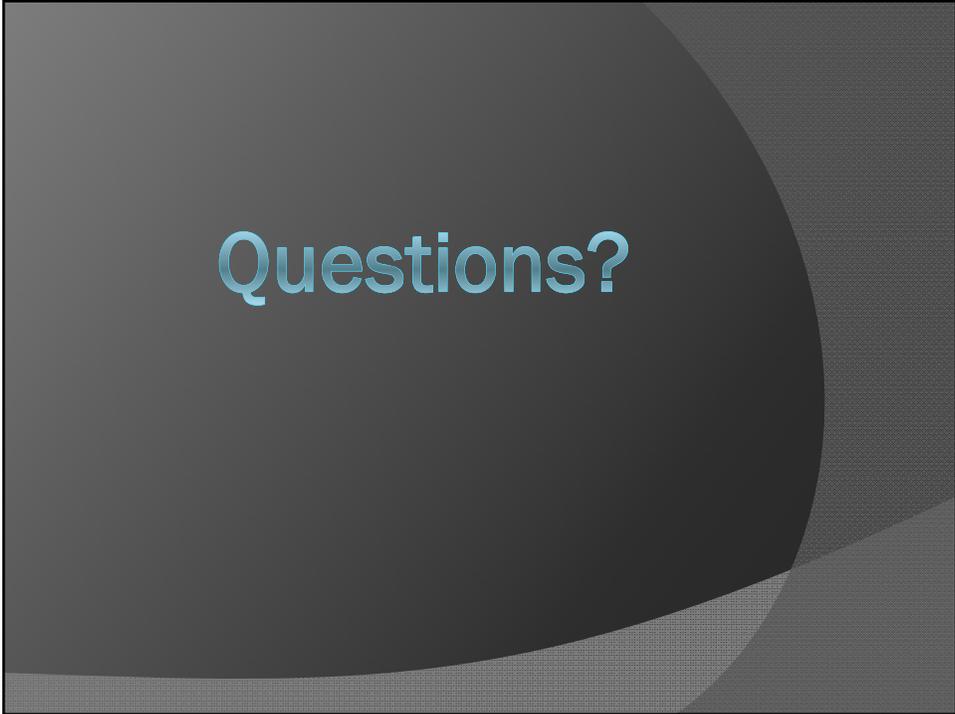
- DHS assess whether the new sex abuse allegation against father poses a risk to child, and whether a new petition allegation should be filed.
- DHS revise the safety plan in the foster home to ensure Ricky has no unsupervised contact with (the other child at issue).

VICARIOUS TRAUMA

Taking care of yourself.

Taking Care of Yourself

Babies Laughing



Questions?