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JOHN A. CLARKE, CLERK
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
JUVENILE COURT**

In the Matter of:)
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The Alliance for Children's Rights,)
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Petitioner.)
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ORDER

On April 24, 2000 Petitioner The Alliance for Children's Rights ("The Alliance") filed a petition seeking a "Special Order Re: Prohibition Of Monthly Social Worker Visitation Waivers For State Licensed And Foster Family Agency Certified Foster Homes." On September 25, 2000, after reading and considering briefs and motions submitted by The Alliance and the Department of Children and Family Services ("DCFS"), the Court held a hearing on the petition at which The Alliance and DCFS argued their respective positions.

Applicable Law

1. The Juvenile Court is responsible for determining that children under its jurisdiction

1 "receive care, treatment and guidance consistent with their best interest . . ." [Welfare
2 & Institutions Code section 202(b)]. Juvenile Court law must be liberally construed
3 to carry out this and other purposes. [WIC 202(a)]
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- 5 2. The Judicial Council has promulgated Standards of Judicial Administration
6 ("Standards"). Standard 24 pertains to juvenile court matters. Specifically, Standard
7 24(e) is entitled "Unique role of a juvenile court judge." The Advisory Committee
8 Comment to Standard 24(e) provides:

9 "A superior court judge assigned to the juvenile court occupies a
10 unique position within California's judiciary. In addition to the
11 traditional role of fairly and efficiently resolving disputes before the
12 court, the juvenile court judge is statutorily required to discharge
13 other duties. California law empowers the juvenile court judge not
14 only to order services for children under its jurisdiction, but also to
15 enforce and review the delivery of those services. . ."

16 Standard 24(e), among other things, encourages juvenile court judges to;

17 ". . . (3) Exercise their authority by statute or rule to review, order, and
18 enforce the delivery of specific services and treatment for children at-risk and
19 their families."

- 20 3. WIC 300.2 sets forth the purpose of Juvenile Court law as it specifically relates to
21 dependent children. It provides, among other things, that the purpose "is to provide
22 maximum safety and protection for children who are currently being physically,
23 sexually, or emotionally abused, being neglected, or being exploited, and to ensure
24 the safety, protection and emotional well-being of children who are at risk of that
25 harm." A further purpose is to provide "a home environment free from the negative
26 effects of substance abuse . . ."

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- 1 4. WIC requires juvenile dependency judicial officers to conduct various hearings,
2 including status reviews [WIC 366.21] permanency planning hearings [WIC 366.22]
3 and reviews of permanent plans [WIC 366.3]. These hearings must be held at least
4 once every six months [WIC 366]. At each of these hearings, juvenile dependency
5 judicial officers "shall consider the safety of the child" and must make certain
6 findings regarding, among other things, "the continuing . . . appropriateness of the
7 placement" and "the extent of the agency's compliance with the case plan."
8 Additionally, at all status review and permanency planning hearings, juvenile
9 dependency judicial officers must make statutorily required findings whether return
10 of a foster child to his or her parent(s) would pose a substantial risk of detriment to
11 the child's physical or emotional health, and whether the child protective services
12 agency has provided or offered reasonable services to the child and family [WIC
13 366.21(e), (f) and 366.22]. Finally, at all such hearings juvenile dependency judicial
14 officers must determine whether parents and others may visit with the child and, if
15 so, the terms of that visitation [WIC 362.1].
- 16 5. Juvenile dependency judicial officers are further required to "take whatever
17 appropriate action is necessary to fully protect the interests of the child". Those
18 interests include those "beyond the scope of the juvenile proceeding." [WIC 317(e)]
- 19 6. The California Department of Social Services ("CDSS") has adopted regulations
20 governing the frequency of social worker visits to dependent children placed in foster
21 homes. The standard established in these regulations is that such visits shall occur
22 monthly. However, the regulations permit exceptions to the monthly visitation
23 standard upon application to CDSS for a "waiver." Substantial criteria must be met
24 to qualify for a "waiver." [*Child Welfare Service Manual*, Regulations 31-320.4, et
25 seq.] For children receiving family reunification services, these criteria specifically
26 require:
27 - The child may not be experiencing severe physical or emotional problems
28

1 caused by or aggravated by the placement.

- 2 - The placement must be stable and the social worker must have completed
3 monthly visits in three of the prior four months.
- 4 - Evidence must establish that at least one of the following conditions exists:
- 5 - the child must be placed with a foster parent who has provided
6 continuous care for at least 12 months
 - 7 - the placement is voluntary and the child's parents or guardians visit
8 monthly
 - 9 - the child is visited monthly by one or more care providers as part of
10 the case plan, or by a physician or other health professional, and there
11 is a documented agreement with the service provider to furnish the
12 CSW with timely reports
 - 13 - the child is under 2 and less frequent CSW-child visitation would
facilitate reunification by permitting more CSW-parent visits.

14 For children placed in foster care as part of a permanent plan after termination of
15 family reunification services, the criteria specifically require:

- 16 - The child may not be experiencing severe physical or emotional problems
17 caused by or aggravated by the placement.
- 18 - The placement must be stable.
- 19 - The child must have been in the placement for six or more consecutive
20 months
- 21 - The foster care provider must be cooperating with the case plan
- 22 - The foster child either must be attending school, day treatment, or a licensed
23 day care facility or be given assistance with a written transitional independent
24 living plan.

1 Findings

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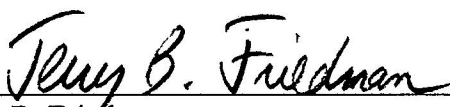
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- 4 1. DCFS conducted a random audit of cases in June 1999 which revealed that DCFS
5 social workers requested waivers from the monthly visitation standard in 11% of
6 1100 cases audited. It appears that all such audited waivers were granted.
7 [Declaration of Anita Bock, August 24, 2000] Based on this evidence, the Court
8 finds that the practice of obtaining foster child visitation waivers is common practice
9 in Los Angeles County.
- 10 2. No evidence was presented to the Court regarding whether any process exists
11 whereby CDSS, DCFS or any other entity reviews and considers individual waiver
12 requests to determine whether the request meets the regulatory established criteria.
- 13
- 14 3. DCFS admitted that juvenile dependency judicial officers have the authority on a
15 case by case basis to order DCFS to visit dependent children monthly or more often
16 if necessary.
- 17
- 18 4. Los Angeles County juvenile dependency judicial officers rely upon DCFS court
19 reports in order to meet their statutory obligations set forth above in paragraphs 1 -
20 5 of Applicable Law.
- 21
- 22 5. The information, observations, evidence and child statements contained in these court
23 reports must be current, accurate and complete in order for Los Angeles County
24 juvenile dependency judicial officers to fulfill these statutory obligations. In the
25 absence of monthly, or if necessary, more frequent visits by DCFS social workers
26 with each dependent foster child, the information, observations, evidence and child
27 statements contained in these court reports may not be current, accurate and
28 complete.

1 Orders
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- 3 1. Prior to acting on a visitation waiver in any case involving a dependent of the Los
4 Angeles Juvenile Court, every DCFS social worker must submit a report ("waiver
5 report") to the judicial officer in that case, with notice to all other parties. Such
6 waiver report shall state whether or not CDSS or DCFS has reviewed and considered
7 the waiver request and, if so, set forth the CDSS or DCFS determination, including
8 a copy of any written documentation of the CDSS or DCFS determination.
9 Additionally, the waiver report shall set forth the grounds for the waiver request,
10 including a factual basis supporting each and every criteria required by *Child Welfare*
11 *Service Manual*, Regulations 31-320.4, et seq., to establish that there are grounds for
12 issuance of a waiver.
- 13 2. The judicial officer shall set a noticed hearing at the earliest possible date for review
14 of the waiver report.
- 15 3. At the hearing, the judicial officer will read and consider the waiver report and
16 consider other relevant evidence to determine whether grounds exist for issuing a
17 specific order regarding frequency of visitation.
- 18 4. By January 8, 2001, DCFS must provide a list of all dependent children who are
19 currently not visited monthly pursuant to a visitation waiver, including the child's
20 name and case number, either to the Presiding Judge of the Juvenile Court or to the
21 judicial officer hearing each such child's case. This list shall be made available, by
22 court department, to all counsel who regularly practice in each department.

23
24 Dated: December 5, 2000

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26 _____
27 Terry B. Friedman
28 Presiding Judge, Juvenile Court