

An open-and-shut case

Dependency courts, where cases of child abuse and neglect are heard, should be open to the public.

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The problems of Los Angeles County's Department of Children and Family Services are too numerous to list and too serious to ignore. County supervisors addressed one last week by moving aside the head of the troubled agency. Those that remain range from uneven and onerous caseloads to technological limitations to inexperienced workers handling delicate matters beyond their capacity. Compounding all of those issues, however, is one problem that can and should be fixed: Dependency courts, where cases of child abuse and neglect are heard, should be open to the public.

Some may regard it as unsurprising that a newspaper would favor open judicial proceedings, and in one sense it is: We do generally believe that the public's interests are most reliably served when records and actions of government agencies, including courts, are subject to scrutiny by the media and the public. But this proposal for openness is not special pleading by the media. Already, juvenile and dependency hearings may be open if the presiding officer concludes there are compelling public interests in lifting the presumption of secrecy. Because news organizations are the rare institution with both resources and interest in openness, many of those cases that journalists seek to observe are opened.

That leaves others out, however, including child welfare advocates, interested parties and those who simply want to see justice done, but lack the knowledge or money to hire lawyers and fight their way into court.

It is natural to want to protect the privacy of children, and no system should be cavalier about their interests. But reversing the presumption of secrecy in these proceedings would not endanger children or expose them to harmful publicity. Just as judges today have the power to open proceedings when the public interest demands it, they would have the authority under the new system to shut hearings when the child's interests compelled it.

Meanwhile, openness would subject others in the system to scrutiny. The actions — or inaction — of social workers would be matters of public debate; decisions about whether to pull children out of their homes or to leave them with their families would be reviewable. Serious philosophical and practical differences about the county's foster care system would be opened for public consideration: Does DCFS remove too many children from their homes when there are allegations of abuse? Does it leave too many in the hands of abusive parents or reunite them too quickly? Those are hard questions to answer even with full information; under the current rules, they are even harder to debate because the basic facts are hidden.

Just this past year, a young boy who talked of suicide and complained of abuse at the hands of his mother and her boyfriend was left in their home after a visit by a social worker. The boy hanged himself that night. Was the social worker negligent? Some county officials think so; others have defended the employee. But in a system shielded from public view and notorious for protecting workers from discipline even when they badly err, it is all but impossible for outsiders to say with certainty.

Openness also would strike one measure of irrationality from the courts. Today, a parent who is charged with criminal neglect is tried in an open courtroom in Superior Court, while the related dependency case is heard in a

closed chamber. There is no logic to this. An open criminal proceeding helps protect the rights of the accused and allows the public to assess the work of its representatives. That's no less true in dependency than it is in criminal court. It is silly to think that legitimate privacy interests are being protected by a closed proceeding when the same facts are being disclosed in an open courtroom down the street.

Agencies that once resisted this sensible reform are gradually coming around. DCFS itself is now recommending open hearings, which it says "will provide greater transparency and result in a better understanding of child protective services, encourage necessary reforms and strengthen community partnerships essential to improving the safety of children from abuse and neglect." The Board of Supervisors has endorsed that language and is preparing to lobby for a bill in Sacramento that would open hearings. Similar bills by former state Sen. Adam Schiff and Senate President Pro Tem Darrell Steinberg failed, but DCFS' support means that much of the earlier opposition has melted away. The coming year offers a realistic chance of success.

Indeed, opening hearings ought to be regarded as a necessary first step, not the ultimate goal. Once dependency courts have been opened by state law, the next step should be to open records as well. As with hearings, they could be withheld at the discretion of a judge, but records of the public work of public employees should be released unless there is a compelling reason for privacy.

Among the most fervent advocates of transparency is Michael Nash, the presiding judge of Los Angeles County Juvenile Court. He backed the efforts of Schiff and Steinberg and has urged the Legislature to finally adopt legislation to open dependency proceedings. He's done that even though one group that would be more closely watched if hearings were open is judges.

Judges and others involved in child welfare, Nash said last week, "need to be accountable to the public we serve." The current emphasis on closed hearings, he added, has worked to undermine the primary responsibility of dependency courts: the protection of children. "The main entity that's protected by closing these proceedings is the system itself," he argued. And that system, as Nash noted, "is far from perfect."

More than 20 states presently conduct proceedings in their dependency courts openly, along the lines that Nash proposes for California. Oregon has a respected system, as does Minnesota. Their successes have helped convince those who once feared openness that it in fact has protected children, not exposed or harmed them. California has missed previous chances to lead in this area. Now, it should catch up with those that have paved the way. Then, at last, the children of this county and others will know that their fates will not be sealed in secret, but that those whose responsibility it is to care for them will be held accountable for doing it well.

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