

County of Santa Clara

Social Services Agency

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DATE: February 6, 2024

TO: Honorable Board of Supervisors

FROM: Daniel Little, Social Services Agency Director DS
DL
Damion Wright, Director, Department of Family and Children's Services DS
DW

SUBJECT: A.4b – DFCS Staffing and Legal Consultation

At the December 19, 2023 Special Meeting of the Board of Supervisors, the Board requested a report on how to refine County Counsel's participation to ensure it allows Department of Family and Children's Services (DFCS) staff to follow best practices – including reporting on the potential resumption of "staffings" for social workers, their supervisors, County Counsel, and other appropriate staff to collaborate on decisions regarding individual cases. This memorandum responds to that request.

On November 15, 2023, in response to concerns from social workers, including the concerns raised by social workers to CDSS, the DFCS Director issued Interim Direction to DFCS staff regarding a change in the process for seeking legal consultation designed to address those concerns. Under the Interim Direction, the "legal staffing" process where social workers and supervisory staff engaged with County Counsel was changed. The goal of the Interim Direction was to address social worker concerns about the legal staffing process and potential role confusion when case discussions are happening prior to the social worker, supervisor, and division manager reaching a conclusion about what the clinical assessment indicates is the appropriate level of intervention. Accordingly, the Interim Direction separated clinical case consultation from legal consultation, by first requiring the social worker, supervisor, and division manager to reach a clinical decision based on their completed assessment tools (*i.e.*, Structured Decision Making (SDM) Safety Assessment and Risk Assessment tools) and their clinical assessment, and then having the division manager connect with counsel for a legal consultation if court intervention is recommended. This structural change is aimed at aligning practice with role responsibilities, by reinforcing that DFCS is the decision maker for child welfare interventions.

Under the Interim Direction, division managers ensure the department's recommendation on the appropriate intervention level is made prior to any engagement of County Counsel. This recommendation is based on the DFCS team's assessment of risk and safety, safety planning conversations to address reasonable efforts to support the child in the home without Court intervention, Court intervention with the child remaining in the home, or the child needing to

be out of the parent's or caregiver's home either voluntarily or through Court intervention. As both the SDM tool and DFCS policy were created to follow the child welfare laws that govern the work DFCS does, any decisions made by DFCS that are based on a properly completed SDM tool and consistent with DFCS policy, should align with applicable law, as long as SDM tools are utilized to fidelity and policy is followed.

After release of the November 15, 2023 Interim Direction, concerns were raised about social work staff not being a part of the legal consultation. In course of conversations with staff to clarify the Interim Direction and provide further support and coaching around the different steps of decision making required by DFCS, and the tools that support DFCS' decisions including SDM and DFCS staff's own clinical assessment, DFCS leadership received feedback on the Interim Direction and opportunities for improvement from individual staff including social workers, supervisors, and managers, both SEIU and CEMA, and County Counsel staff regarding the current legal consultation process. Feedback on the Interim Direction was provided in individual one-on-one meetings, unit meetings, and via email, and discussed at the senior leadership level with the DFCS Director.

Some DFCS staff have voiced concern with the current model and some staff have voiced their support for this new legal consultation model. However, the majority of individuals have indicated a desire for staff to be more involved in the legal consultation, and in many cases, staff have offered a particular model that was utilized within the department until 2019 as their preference. This prior legal consultation design had a multi-disciplinary team (MDT) structure instead of just the primary social worker, supervisor and manager. The composition of the MDT included the primary social worker, their supervisor and manager, and other DFCS peer staff (i.e. social workers, supervisors, and managers) to support collaborative decision making. A DFCS manager also facilitated the consultation process. The decision to move away from this model was due to a desire to reinforce the child and family team process, where key decisions are made with the family. In the prior MDT practice, County Counsel would attend the entire meeting. DFCS is also exploring the option of inviting County Counsel to join the meeting after the social worker team has met and made the decision.

DFCS leadership has also engaged with County Counsel staff, who are comfortable with the new process implemented in November and shared that completed assessments prior to meeting help facilitate their legal consultations. County Counsel would also be supportive of exploring alternatives in partnership with DFCS to best serve the department's requests for legal support.

Discussions and exploration about legal consultation alternatives are ongoing. DFCS is also actively working to further understand the root cause of concerns that were eventually elevated by DFCS staff to CDSS regarding the prior approach to legal consultation with counsel. DFCS will continue to ensure the role and responsibility of DFCS as the decision maker around child welfare interventions is always clear, irrespective of the design of the legal consultation model. Lastly, DFCS wants to have a collaborative process to co-design a legal consultation model with DFCS social workers, managers, and County Counsel partners that can support the entirety of its workforce in making critical decisions around interventions with families. DFCS believes that in capturing the voices of all, the department

will be able to evolve its practice model, informed by those who it impacts, to most effectively serve our children and families.

Two DFCS senior managers are leading the development of a proposal for a DFCS legal consultation model based on input from DFCS staff. The managers will meet further with social worker and supervisory teams who this policy directly impacts, which is focused in the Emergency Response program area. In addition, DFCS will send a department-wide survey to receive feedback.

The proposal will ultimately be reviewed by the DFCS senior leadership team, County Counsel, and the DFCS Steering Committee Leadership Team, which is comprised of multiple layers of DFCS staff who are mainly social workers and supervisors and includes Racial Equity and Leadership (REAL) team members and different employee group members. The proposal will also be discussed with CEMA and SEIU. This process is expected to conclude by March 2024.