

Free term paper on legal issues in child abuse and neglect

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In New Jersey, the Department of Children and Families will be responsible for handling the case after Diane's disclosure. After Diane tells of her abuse by her father to her friend who then tells the mother, the alleged abuse will be reported to the Department of Children and Families either in person or through the hot line phone number provided by the department. The department will send a social worker to the Diane's home to investigate the allegations. Since her mother refused to accept these allegations, it will be upon the department to involve other parties to determine the truthfulness of these allegations. The department will consult the police, and if necessary, the prosecutors' office in Newark to determine whether or not they should force an arrest and an examination of the child. If such a decision is made, the prosecutor will approach a judge for the orders to carry out the arrest and the examination. The police will then move ahead and arrest Roger on the charge of sexual abuse of her daughter Diane. His rights will be read to him and his right to an attorney. He will be formally arraigned in a superior court where the judge will decide on the bail for the defendant. During the arraignment, Diane will not need to be present. A date for a summary hearing will then be set.

The prosecution and the department of children and families will make a decision on whether Diane, in the circumstances, would have her interests best served by continuing living with her parents who are hostile to the proceedings against Roger or by living separate with her family.

Consideration will be made that witness tampering is likely to occur since Diane's parents are interested parties in the legal proceedings.

In New Jersey, a superior court or a grand jury will be used to determine

whether or not there is a case against the defendant. This will occur sometime after the arraignment. A superior court will hear the prosecutor on the evidence collected and decide on whether the charges will proceed to court. Another avenue would be to have the grand jury who then will make a decision on whether the charges against Roger.

If a decision is made to proceed to trial, a trial date will be set by the judge. In the time between the summary hearing and the trial, the defense and the prosecutor will conduct discovery. At this point, the defense and prosecutor will interview the victim of the alleged abuse and other witnesses that may be called upon in the trial. At this point, the child protection division, if it's the one that is taking care of Diane, will advise on the best course of action to protect her from harm. Limitations may be imposed as to the extent that Diane can be subjected to interviews during discovery charges.

During this time, plea bargains will be ongoing. Offers between the two parties will be made, back and forth to reach a deal. Basically, a plea bargain will involve the defendant agreeing to a sentence and reduced charges. If a plea agreement is reached, the trial is brought to an end and the defendant moves to serve his obligations of the plea agreement. Motions to suppress evidence, for dismissals and any other matters will be heard at this time. At trial, both sides will present evidence to support their case. Such a trial will be a jury trial, assuming that the defendant does not make a formal request that that judge make a hearing. The prosecutor will be the first one, and more likely than not will call on the victim to the witness stand. Since it is likely that Diane will be under the placement of the Department of Children and Families, a decision may be made to have her testify in closed

circuit camera. During the interview, the victim may be cross examined by the defense attorney. The department, together with the prosecutor will be responsible for ensuring that the witness is well prepared to give her testimony. The objective of this will be to ensure that she does not suffer long term psychological harm from giving her testimony in an open court. After all the evidence has been presented before the court, the jury will be instructed to decide on whether or not the defendant is guilty. After they reach a decision, they will communicate it to the court. If the defendant is found guilty of the charges he has been accused of, a date will be set by the judge for sentencing. Sentencing will be made according to the laws of the State of New Jersey. During the sentencing, the judge will determine the prison sentence that will be imposed on the defendant. The child protection division will determine whether the victim will be reunited with her mother or she will continue living under placement. Should the verdict come back as not guilty, the parents may take legal measures to have the child returned to her parents. If the defendant is imprisoned, he may be forced to seek professional help to deal with the psychiatric problems that he may have.

Reference

Myers, J. E. (1998). *Legal issues in child abuse and neglect practice*, Thousand Oaks, CA: Sage Publications.