

Legal SCENE

By Ron Hocevar
Scott County Attorney



Review team formed to deal with deaths of children

"Children deserve to be loved and to know they are loved. They deserve to be cherished and to know they are valuable." Dave Ramsey and Rachel Cruze, *Smart Money Smart Kids*

"There can be no keener revelation of a society's soul than the way in which it treats its children." Nelson Mandela, late President of South Africa

A 59-day-old baby boy is found dead in bed with his father who had fallen asleep. An autopsy reveals scalp hemorrhaging, a scalp fracture, rib fractures, a left wrist fracture, and microscopic changes to the brain compatible with a remote (if that term can be applied to a two-month-old baby) injury. Some of the fractures were remote in time, and some fractures were more recent to the death. The baby's father is found guilty of 2nd degree manslaughter, two counts of 1st degree assault, and one count of 3rd degree assault. He will be sentenced on Feb. 14, 2017.

The police arrive at a medical emergency and find a man waving the officers into the residence saying his son (5 months old) was dead in the back room. The cause of death was determined to be positional asphyxia (the baby's position prevented him from breathing). The father stated he was feeding the baby a bottle, he (the father) fell asleep, and when he woke up, the baby was lying face down and not breathing. The father admitted being away from home the prior three days using methamphetamine and was basically awake the whole time. When he returned home, he took the baby into his bedroom to feed him a bottle and fell asleep. The father pled guilty to 2nd degree manslaughter while committing child neglect. He was sentenced to 57 months in prison.

At approximately 9:30 a.m., police and fire personnel arrived at a residence to find a five-month-old baby boy dead. The mother stated she worked the prior evening and afterward had a beer and a shot. When she got home, she gave the baby a bottle of formula at approximately 12:30 or 1 a.m., placed the baby in bed with her on his back. At approximately 9:30 a.m., she woke up and discovered the baby lying face down, blue, stiff, and cold. When law enforcement took her to have a blood sample drawn, she changed her version of what happened. She stated she didn't get home until closer to 2 a.m., and that is was her 12-year-old daughter who fed the baby around 12:30 – 1 a.m. She admitted she started drinking alcohol about 11:15 p.m. and her last drink was about 1:15 – 1:30 a.m. The blood test that was administered at 12:10 p.m. indicated a blood alcohol concentration of .03. This matter is still under investigation.

These are just three of the incidents the Scott County Attorney's Office has had to deal with in the last year regarding deceased children. That's right... here in Scott County. These are only cases where tragically a child has died; this office has been involved in over 300 "children in need of protective services (CPS)" files in the past year. Child homicide and child abuse (in its many forms) are not limited by geographic area, demographic class, socioeconomic class, or ethnicity.

In the United States, homicide accounts for nearly one in five injury-related deaths among infants (National Center for Injury Prevention and Control, 2015). According to data from the National Child Abuse and Neglect Data System, it is estimated that 1,580 children died from abuse and neglect in 2014. And even with that shockingly high figure, child fatalities due to abuse and neglect are likely underreported. This underreporting is the result of complicated data collection – many times, there are unknown circumstances around a child's death, the investigation, and the communications between all the appropriate agencies. Within each state, there are significant differences in investigating, reporting, and training in death investigations.

One way Scott County is dealing with infant deaths in our community and making proper reports is by forming a *child fatality review team*. The goal of the team is to review each child death to understand why death occurred, and to take action to prevent other deaths. The team makes recommendations to improve local practices and collaboration among local agencies. Recommendations are also made for changes to state policies and laws.

The proceedings and records of the fatality review team are protected, non-public data. Members of the team must not disclose what transpired during a fatality review other than to carry out the duties of the team. The review team is chaired by the Child Protection Supervisor of the County, and typically includes the main law enforcement detective that investigated the facts surrounding the child's death. Also included on the team are other law enforcement officers, Public Health representatives, child protection case workers from Human Services, attorneys from the County Attorney's Office, and medical professionals.

The main goal of the fatality review team is to stop children from being killed by the intentional acts or negligence of the very people who are supposed to be the child's greatest protectors. Recommendations made by the review team should lead to improvements in the system, and it is this system that helps protect children from maltreatment, serious harm, and preventable death.

Law Library News

Court of Appeals Self-Help Clinics expanded

The Minnesota State Law Library recently announced an expansion of their Appeals Self-Help Clinics, which are *free* and open to all Minnesota residents. There is no income qualification required to participate.

The Minnesota State Law Library offers these in-person clinics on the third Thursday of each month from 1:30 to 4:30 p.m. (dates may change due to holidays). Participants in the walk-in clinic may start signing up at 1 p.m. (If time runs out, it is possible that some people may not meet with the volunteer attorney.) It is important to know that attending the clinic does *not* extend the time to appeal. For those unable to travel to Saint Paul, 30-minute phone clinics are also offered on the second Thursday of each month from 1 to 3 p.m.

At the State Law Library Appeals Self-Help Clinic, volunteer attorneys can assist self-represented litigants with understanding which forms to file, following mandatory deadlines, what is needed in a motion or an appellate brief, how to properly serve the other party, and review the qualifications for a fee waiver. The State Law Library also hosts a clinic specifically for people appealing a denial of unemployment benefits to the Court of Appeals; this clinic runs twice per month. For more information regarding that clinic, visit <http://mn.gov/law-library/services/self-help-clinics.jsp#Unemployment>.

Clinics are held at the Minnesota State Law Library, Room G25 (ground floor) of the Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota, 55057. Be ready to pay for parking. There are meters in front of the Library, and a parking lot directly across the street. For more information about these clinics, call the Minnesota State Law Library at (651) 297-7651 or visit the Minnesota State Law Library website at <https://mn.gov/law-library/services/self-help-clinics.jsp>.

Minnesota State Law Librarian (and one of the creators of the Appeals Clinic) Liz Reppe explained, "At the State Law Library, we see a great many people pursuing appeals by themselves and recognized there was a need for this clinic. Prior to the clinic's start, there was almost no assistance available in Minnesota for self-represented appellants. Appeals are very complicated. Yet in almost a quarter of all appeals at least one party does not have an attorney. In some types of cases, it is particularly high – 83 percent for unemployment appeals, and 39 percent for family law cases. We have been very happy to see good attendance at the clinic, and a high satisfaction rate among customers of 93 percent."

Navigating the Minnesota Court System can be confusing. People are not sure which court is hearing their case, or sometimes question if they are filing their case in the correct place. It is no wonder that people are confused -- there



is Federal Court (Minneapolis and Saint Paul) and specialty courts, such as Tax Court, Worker's Compensation Court, Bankruptcy, and Immigration Court just to name a few. For most situations, there are three basic Minnesota court levels: the **District Court (or Trial Court)** which hears most criminal, civil, probate, juvenile, and family law cases. The second is the **Court of Appeals**, which offers an opportunity to have that district case reviewed. The Court of Appeals reviews district court decisions for errors of law and sufficiency of evidence. It does not accept new evidence or re-hear a case because someone was unhappy with the district court ruling. The highest Minnesota court level is the **Minnesota Supreme Court**. The Supreme Court hears criminal and civil appeals from the Court of Appeals and some cases directly from district court. The Supreme Court also regulates lower courts, attorneys, and certain groups involved in legal aid and public defense.

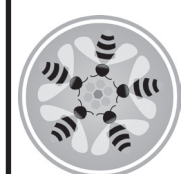
What can the Court of Appeals do?

The Court of Appeals reviews the final decisions of the trial courts, state agencies, and local governments. It is designed to be the error –correcting Court. The Court of Appeals can "affirm" (agree with the district court decision), reverse the decision, and/or reverse and "remand" (send it back for further consideration at the district court level).

Appeals are usually very different from proceedings before a trial court, an administrative agency, or a child support magistrate:

- You must make all your arguments in writing.
- You cannot present witnesses.
- You cannot present new evidence.
- You can make arguments only about issues that:
 - ... you raised in the trial court or agency proceedings, *and*
 - ... were decided (ruled on) by the judge or other decision-maker.
- You usually cannot make new arguments on appeal.

Minnesota Lawyer magazine recently named the attorneys who created this Appeals Clinic the title of "Attorneys of The Year." If you need assistance with an appeal, don't hesitate to call them to better prepare for your day in Appeals Court.



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