



OFFICE OF THE CHILD ADVOCATE

Nathan Deal
Governor

Tom C. Rawlings
Director

Via Hand Delivery and Email

Hon. James Whitfield, President
Council of Juvenile Court Judges
State of Georgia

RE: Recommendations regarding children missing from foster care

Dear Judge Whitfield:

Following a recent review of children who have run away after being placed in foster care, our office would respectfully recommend some standard procedures that juvenile courts can take to ensure these children are not in severe danger. While some of our youth who run from foster care simply run to a relative or friend who will not exploit them, I am especially concerned about those who run directly into extreme danger.

As you know, federal law¹ and DFCS policy² require the agency to (1) identify and implement services for children for whom there's reasonable cause to believe are at risk of being sex trafficking victims and (2) implement specific protocols for "expeditiously locating any child missing from care," screen recovered runaways for sex trafficking, and to the extent possible respond to the reasons for the run in subsequent placements.

DFCS is also required to report immediately information on missing or abducted children or youth to law enforcement for entry into NCIC and to the National Center for Missing and Exploited Children.³

It is important to note that, under federal law, these requirements extend to children between 18 and 21 years of age who remain in care or who are receiving independent living program services.

Pursuant to the law and policy, DFCS is required to take the following steps when a child is missing from foster care:

1. File a missing persons report on the child;
2. Activate a protective services alert in SHINES;

¹ 42 USC §671 (a)(9), (a)(35)

² DFCS policy 19.22

³ 42 USC § 671 (a)(35)(B).

3. Notify the juvenile court within two days of the child's disappearance by filing a runaway report that includes details on efforts to locate the child;
4. Notify within two business days the child's school, probation officers, and service providers;
5. Contact the National Center for Missing and Exploited Children to report the child missing;
6. Conduct a comprehensive search for the child, at a minimum staffing the matter every 90 days.

DFCS Policy specifically states:

When child in foster care is missing, DFCS maintains responsibility to conduct a comprehensive search to locate the child and ensure their safety and well-being. Missing children are extremely vulnerable and could be in a dangerous situation. Moreover, the issues that brought the children into care need to be adequately addressed with the parent/caregiver before DFCS intervention is concluded, regardless of the location of the child. **DFCS does not seek to be relieved of custody based on the child being missing.** (emphasis added).

Despite this policy and federal law, OCA has encountered a number of recent cases in which the agency has not fully complied with policy and/or law. We therefore would encourage juvenile court judges to consider requiring the agency to take steps to ensure compliance. We have created a recommended standing order on this issue for your consideration and would appreciate your circulating it to your colleagues.

Thank you so much for all that you do.

Regards,



Tom C. Rawlings
Director
Office of the Child Advocate

Cc: Hon. Eric John, Director, CJCJ

**IN THE JUVENILE COURT OF _____ COUNTY
STATE OF GEORGIA**

In Re: *
*
Standing Order on *
Children Missing from *
Care *

The Court hereby adopts the following **Standing Order**, which shall apply beginning on the date entered to:

- (1) All children who have been adjudicated dependent or as children in need of services (CHINS) by this Court and who are in the custody of the Georgia Division of Family and Children Services (DFCS);
- (2) All children who are in the temporary custody of DFCS by order of this court pending adjudication and disposition of a dependency or CHINS case; and
- (3) All youth who are subject to this court’s case review jurisdiction by reason of their remaining in extended foster care with DFCS beyond the age of 18.

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DFCS shall report to the court the name, case number, and known circumstances of any child or youth covered by this order who has left his or her placement without permission. Said notification shall be made in the form of a juvenile complaint (JUV-1), which shall be filed with the Court no later than 48 hours after the child’s disappearance, non-business hours excluded. A copy of the complaint shall be delivered to the child’s or youth’s attorney, the child or youth’s guardian ad litem and/or CASA, the attorney for the parent(s), and the attorney for the agency (SAAG). Said complaint shall include the following specific facts to the extent known:

- a) The name, date of birth, and dependency case number of the child or youth;
- b) The name and location of the placement from which the child or youth ran away or was taken;
- c) Details regarding the agency's prior and ongoing efforts to find the child or youth;
- d) Information regarding any person with whom the child or youth is believed to have left the placement;
- e) Information regarding the child's or youth's susceptibility to sex trafficking or exploitation, including but not limited to details regarding any medical diagnoses or cognitive disabilities the child may have; the child's record of being exploited; and any statements the child may have made; and
- f) An affirmation that DFCS has filed a missing persons report with (1) law enforcement in both the county of placement and the county of the child's residence; and (2) the National Center for Missing and Exploited Children. Said affirmation should include details of the report.

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If the child or youth is not recovered or returned to care within 5 business days of the filing of the complaint, DFCS shall take the following actions:

- a) file a CHINS petition with the court regarding any missing child under the age of 18;
- b) for any youth in extended foster care, file a motion requesting a court review of the youth's situation.

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When a child in the custody of DFCS is missing from care, DFCS shall not file any petition to be discharged from custody of a child, nor any motion to dismiss any

dependency or CHINS petition regarding such child, unless the following conditions are met, which conditions must be alleged in the petition:

- a) Reasonable grounds exist to believe the child is living in the community with relatives or friends;
- b) No reasonable grounds exist to believe the child is currently suffering from substance abuse issues; has a significant mental health disorder; or is at risk of sexual exploitation or human trafficking; and
- c) The agency can demonstrate its diligent efforts to find the child made continually over a period of at least six months with no success. Diligent efforts should include, at a minimum, all of the steps required by DFCS Policy 19.22.

SO ORDERED THIS THE ____ DAY OF _____, 2017.

Judge, _____ Juvenile Court