

CJE CLE “Cars, Kids and CPS”

Friday, September 25, 2015

**Course Outline**

11:30 – 12:00 Lunch Served

12:00 – 12:45

(45 mins)

1. Brief Review of Crimes Related to Children:
  - A. Leaving a child (< 16 yrs old) unattended in car with motor running
    - i. RCW 46.61.685
    - ii. Misdemeanor
  - B. Leaving a child unattended (< 12 yrs old) unattended in parked car while going into bar/place with alcohol
    - i. RCW 9.91.060
    - ii. Gross misdemeanor
  - C. City codes about “Contributing to Dependency of a minor” such as SMC 12A.18.020
  - D. Child passenger restraint is required
    - i. RCW 46.61.687
    - ii. NOT a crime, but an infraction
    - iii. NOT to be used as evidence of “negligence” by a parent
  - E. Unlawful to allow unauthorized minors to drive
    - i. RCW 46.20.024
  - F. Parent shall not authorize any violation of RCW 46.61 by child
    - i. RCW 46.61.700
  - G. Criminal mistreatment in first degree (“child abuse”)
    - i. RCW 9A.42.020
    - ii. Class B
  - H. Criminal mistreatment in second degree
    - i. RCW 9a.42.030
    - ii. Class C
  - I. Criminal mistreatment in third degree
    - i. RCW 9a.42.035
    - ii. Gross misdemeanor
  - J. Criminal mistreatment in the fourth degree
    - i. RCW 9a.42.037
    - ii. Misdemeanor
  - K. Abandonment of dependent in first degree
    - i. RCW 9a.42.060
    - ii. Class B
  - L. Abandonment of dependent in second degree
    - i. RCW 9A.42.070
    - ii. Class C

- M. Abandonment of dependent in third degree
  - i. RCW 9A.42.080
  - ii. Gross misdemeanor
- N. Endangerment with a controlled substance
  - i. RCW 9A.42.100
  - ii. Class B
- O. Leaving a child in care of a sex offender
  - i. RCW 9A.42.110
  - ii. Misdemeanor
- P. Assault of a child in first degree
  - i. RCW 9A.36.120
  - ii. Class A
- Q. Assault of a child in second degree
  - i. RCW 9A.36.130
  - ii. Class B
- R. Assault of a child in third degree
  - i. RCW 9A.36.140
  - ii. Class C
- S. Reckless endangerment
  - i. RCW 9A.36.050
  - ii. Gross misdemeanor
- T. DUI at Sentencing
  - i. Under RCW 46.61.5055(7)(d), at Sentencing, the court MUST consider whether there was a child under age of 16 at time of the DUI offense.
- U. Custodial interference in first degree
  - i. RCW 9A.40.060
  - ii. Class C
- V. Custodial interference in second degree
  - i. RCW 9A.40.070
  - ii. Gross misdemeanor—for first conviction
  - iii. Class C—for subsequent conviction
- W. Furnishing liquor to a minor
  - i. RCW 66.44.270
- X. City codes about “Contributing to delinquency of a minor” such as SMC 12A.18.030

12:45 -1:30  
(45 mins.)

2. Once Law Enforcement Has a Parent in Custody, What Is CPS/DSHS’s Reaction?  
CPS/DSHS Procedures & Standards:
  - A. Initial Report (call from law enforcement)
  - B. Social Worker Assignment
  - C. DSHS/CPS “investigation”
  - D. Parent meeting with DSHS/CPS
  - E. “Findings”
  - F. Appeal Options

## G. Effect of DSHS/CPS Administrative Procedure

A Social Worker for over 17 years, Teresa Sach will walk attendees through the first call to the final letter in a CPS/DSHS investigation. (2 hypotheticals: 1. Violation of RCW46.61.685 (leaving child in car unattended), 2. DUI with child in car)

1:30 – 2:00  
(30 mins)

Q&A about CPS/DSHS procedures and requirements

2:15 – 2:30 Break

2:30 – 3:30  
(1 hour)

3. Ethics of Interacting With DSHS/CPS and/or Dependency Attorney
  - A. Ethics of Duty to Disclose Information to CPS/DSHS
    - i. When acting as criminal attorney
    - ii. When acting as both criminal attorney and attorney for admin/DSHS proceeding
  - B. Ethics of Duty to Disclose or Not Disclose Information to Dependency Attorney
    - i. Applicable RPC's
    - ii. Knowledge of danger to child
    - iii. Dependency attorney's obligation to disclose knowledge and information in civil proceeding of the dependency
  - C. Duty of Criminal Attorney to Know of the Affect a Criminal Plea Will Have on Dependency and Is There a Duty to Inform Client
    - i. Applicable RPC's
    - ii. Affect of Reckless Driving vs. DUI
    - iii. Affect of Reckless Endangerment
4. Ethical Concerns Related to Resolving A Criminal Matter That Involves Children:
  - A. Applicable RPC's
  - B. Resolving DUI while CPS/DSHS action still pending
  - C. Resolving DUI while dependency still pending
  - D. Possibility of additional criminal charges
5. Is There An Ethical Duty to Ask Your Client If Any Administrative Proceeding Has Been Initiated By CPS/DSHS and/or Duty to Inform Client of Possible Consequences/Affect:
  - A. Applicable RPC's
  - B. B Dependency = Abuse & Neglect
  - C. Effect of "Findings" on future children
  - D. Effect of "Findings" on student loans, professional licenses, ability care for special needs child, professional licenses, section 8 housing
6. Even If You Do Not "Formally" Represent the Client in the CPS/Administrative Action, the Client Will Likely Ask Questions of You. Are You Answering As An Attorney? Do You Know How To Answer? Some Possible Questions:

- A. Will the CPS/Admin result show on my criminal history? What if the question is broadly worded such as; “will any of this show up on my record”? How do you answer if you do not fully understand the CPS/Admin component?
- B. Does this have any effect on my ability to care for my grandchild?
- C. Can I still get public housing?

There is more interplay and crossover between criminal charges and DSHS Administrative actions. This area is full of ethical questions and dilemmas. Lorraine Roberts has handled dependency matters for over 20 years and she will walk us through the ethics of being criminal defense attorneys when kids and CPS are involved.

3:30 – 4:00  
(30 mins.)

Q&A on topics related to the ethics of interacting with CPS/DSHS

4:00

Adjourn