

CASA News and Views Cochise County Newsletter

April 2014

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Photo from Child Welfare Information Gateway

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Coordinator's Comments



It has been five years since we celebrated the 20th anniversary of the CASA of Cochise County Program opening its doors on September 25, 1989. I have been so engrossed in other issues that it completely slipped my mind that **this year is the 25th anniversary of CASA of Cochise County!** Because it is a milestone, I have made the

decision to move the Volunteer Recognition Event to September to coincide with the initiation of Cochise County's plunge into CASA. I hope that works for all of you. Many of you who were here in 2009 may remember the celebration at Roka Café for the 20th anniversary on the 25th of September to commemorate the event and the recognition of volunteers. I would like to do the same thing this year and have a combined event on September 25th or as close to that day as possible. Let me know your thoughts.

April is Child Abuse Prevention Month and once again I have posters that need to be displayed in various areas of the counties. I would need a volunteer or two for Benson, Bisbee, Douglas, Sierra Vista, and Willcox. Any takers? We'll send out the posters to you for distribution. This is a recruitment

campaign so I would like you to please wear your "Ask Me about Being a CASA" badge often. Maybe you can get a conversation going with a prospective CASA volunteer.

I want to thank all of you for your hard work in being there for the children of Cochise County. When I read the contact logs (yes, I do read them...it may take awhile to get to them, but they are read), it is obvious that you are investing time and effort in making a difference. I know that at times it can be frustrating and downright aggravating but hang in there. It matters...to the future of a child.

Joan Hansen
Cochise County CASA Program Coordinator

April 2014						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 Janet D. 	2 Manny V. 	3 Patti H. 	4 Tom: Court Report for BS	5
6	7 World Health Day	8	9	10 Abby D. 	11	12 April C. 
13	14	15	16	17 Ned: Court Report for AP	18 Ned: Court Report for NB/NB	19
20 Easter Day	21	22	23	24 Ned L. 	25	26
27 Tell a Story Day	28	29	30 National Honesty Day			

Created by Lissete Borbon, CASA Support

CASA Headliner for April



Mary Blanchard

CASA Newsletter top columnist Mary Blanchard found herself on the receiving end of questions this month. Though a reluctant subject, she responded gracefully and openly, revealing a compelling life. I decided to reverse the order of the usual interview, beginning with the present and peeling away the layers to reveal “What makes Mary tick?”

Estimating that she has worked with some 30 to 35 CASA kids, Mary currently has four cases open: two as CASA, one as Co-CASA,

and one as GAL. She explained that a GAL observes at CFTs and represents a child in court. There is much less interaction with a child than when involved as a CASA volunteer.

When asked how many CASA volunteers she has mentored, Mary couldn't come up with a number. She very much enjoys working with new volunteers, helping them discover the needs of the child/ren and feels empowered watching them grow into their comfort zone. There is never an “ending” date to being a mentor...the CASAs just have fewer and fewer needs as they gain confidence in what they are doing. The most recent mentees are all doing well on their own, so Mary is not an active mentor at the moment, though she has made it clear to all her mentees that she is always available to anyone that needs help.

From time to time, Mary has written articles for the newsletter which describe contacts and experiences with former CASA kids. I asked if there were any that stood out in her mind. She did tell of one child whose family experience was extremely unpleasant, but was very resistant to having a CASA. Mary

persisted in making a connection and, working her Mary magic, had bonded with the child within a month. Since then, she has been “family”, attending a wedding, consequent births, and other family functions.

When not working cases, Mary is very active with her four children and eight grandchildren, some of whom live in Virginia and some in California in addition to the family in Sierra Vista. In case you haven't guessed from conversations or from articles in the newsletter, she is extremely passionate about playing bridge. The club to which she belongs meets four times a week: three day and one night session, though she doesn't always make all the sessions. Mary goes to about four tournaments each year, mostly in Arizona, which account for some of Mary's trips when she is not visiting family.

More than 10 years ago, Mary and her husband parted ways after 45 years, and she went to live with her son and his family. The only child, a granddaughter, is now a junior at NAU in Flagstaff, coming home during vacations. They have divided up the running of the household in that her daughter-in-law runs the kitchen and does the shopping, her

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CASA Headliner for April (Continued)

son does the maintenance, and Mary does the housework.

Before she became a CASA about 2000, Mary retired from 20 years of teaching. She spent one year at Buena High School, nine years at Sierra Vista Middle School, and ten years at Apache Middle School. Most of the time she taught social studies. While she was at Sierra Vista Middle School, two eighth grade blocks were formed. She and the teachers in English and math spent a rough summer trying to come up with their program. It did indeed take all summer for such strong personalities to find common ground, but through the years the block activities and cross curriculum units became the pride of the district. To this day these teachers are devoted friends.

Mary's husband had grown up in Tucson and was stationed at Ft. Huachuca twice. He always wanted to return to Arizona, so a major life change occurred for Mary when they moved to Sierra Vista the second time, settling into a permanent home. She began her teaching career during their second tour as well as returning to college for her

Master's degree, which she completed at age 50.

For more than twenty years, Mary was an Army wife. She and her husband had four children in six years (before she was 28 years old), so her life was concentrated on raising children, sometimes socializing through play dates and playing some bridge, though Mary was quick to point out that it wasn't "real" bridge.

During the itinerant years as a military wife, Mary lived in a variety of places. Shortly after her wedding in San Francisco, her husband was sent to Korea, so Mary moved back home with her parents in California for a year. Next came a few years at Ft. Hood, Texas. Her husband earned his Master's degree at Texas A & M during a tour at College Station, Texas. The next duty assignment was Germany, then Mary and children moved back to California to live near her parents while her husband was sent to Viet Nam for a year.

When the family moved to Ft. Hood once

again, Mary decided to finish up her college degree. She lacked credits for a year and a half, but threw herself into working overtime and finished in a year, at age 30, while caring for four children. Fortunately she had few official duties that year because when she had asked the very overbearing battalion commander's wife what she thought about one of the wives going to school, the woman was thrilled at the thought of having the only officer's wife on post who would be going to school. She excused Mary from all the wives' activities for the entire year. Mary gave a formal tea (her friends made all the food) and went off to school.

For a second time, Mary and the children moved back to California near her parents as her husband was sent to Viet Nam for the second time. Mary again went back to school. She earned her teaching credential at San Diego State in a special program for disadvantaged children. She also became enthusiastically active in La Raza, the Hispanic action group founded by Cesar Chavez.

While Mary and her family were stationed at Ft. Leavenworth, Kansas, she became involved in a junior riding program, working

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CASA Headliner for April (Continued)

with small children learning to ride English style. Riding and the teaching of riding became a passion for her.

Though her father was a career Army officer, Mary lived most of her younger years in Arlington, VA while her father was based at the Pentagon. She had been born in the Panama Canal Zone, and then lived in Oklahoma before moving to Arlington.

The family moved to Naples, Italy where Mary spent her senior year in high school. She really blossomed that year, participating in chorus, a theatrical group, and in public speaking. She even modeled clothes, as the Naples vision of beauty differed from the ultra-thin tiny models seen on the runways of France. She had a boyfriend, and life was good.

It hadn't always been easy at home. Mary's mother had been born in Hawaii. Her father was in the Air Force and eventually became a general. Her mother was very proper. She grew up in a privileged lifestyle, so had expected that she would always have a maid to do the housework. She finally did in

Naples, Italy, but before that time, Mary, as the eldest, saw that things were lacking in the way the household was being run. She took it upon herself at a young age to do the housework. Her younger brother by two years was an unhappy child. Her sister, eight years younger, was spoiled, but she helped Mary's mom with the cooking on holidays. The mother favored the two younger children, while Mary was her father's favorite, though he was very strict. Though the growing up years had been somewhat rocky, Mary and her siblings became very close as adults.

After high school graduation in Naples, Mary attended college for two years at the University of Maryland in Germany. Her road to a higher education hadn't come easily, as Mary was dyslexic. When she was in the third grade, a friend of her mother gave a set of encyclopedias to Mary. Since there were lots of pictures, she loved to pore over those volumes endlessly. Eventually she began to translate those jumbled up words into text that made sense. During the summer between her senior year and the university in Germany, Mary took a summer-long course

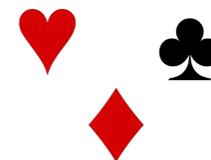
in typing. Her dedication paid off with successful course work in college.

The perseverance we see in Mary today has been building for many years. So when I asked her what she would most like people to remember about her, Mary's reply was that her basic mantra as a CASA volunteer has always been to make a difference in the life of a child and to be there for that child. "Quitting is not an option." It is important to give a CASA child that message and make sure that the child clearly understands what that message means.

My final question was: What makes you laugh? Mary's reply: Quirky things that touch my sense of humor. I find that atmosphere at my bridge games.

Thanks, Mary, for your unfailing strength and optimism. We can all take away a piece of that for ourselves, and then give it back to you in spades!

...and



By **LuRue Troyer**, Cochise County
CASA Volunteer

Encounter at Fry's

by **Mary Kay Holcomb, Cochise County CASA Volunteer**

I had a very difficult case a few years ago and felt I hadn't done a good job on the case. I talked to Joan about not doing CASA anymore and she told me to take some time off. When I decided to come back, I told Joan I want to do babies—no teenagers. The other day I was in Fry's and heard this voice...there was the girl whom I thought I had failed, with her Grandmother. The young girl came over to me with a big smile and gave me a hug. She informed me that she has been on the honor roll. I was so happy to see her and to note that she looked so good and was so happy.

I was talking to the Grandmother and told her that I just about stopped being a CASA because I felt I had failed this young girl. The Grandmother told me that I should have never thought that—I was the only one at the time that cared about her. I asked what had happened that she was happy and trying to get her life together. The Grandmother told me that her father, mother, and grandmother are now all on the same page in raising her.

This sure made my day as it has bothered me terribly about this young girl. As a CASA we might not realize what we accomplish until after the case is over. I am very proud of this young lady as she was failing school and just wanted to be around boys. Now she was dressed right for a 15-yr-old and was so proud that she is on the volleyball team and the honor roll.



Exemplary Teen Manners

by **Mary Blanchard, Cochise County CASA Volunteer**

Window shopping in the mall took on an extra dimension last week. My girl and I were in Rue 21 when a male classmate came up and greeted my girl. She introduced me (she always does and tells everyone that I am her CASA). We chatted, and I left them to visit while I amused myself by looking at clothes that were 50 years too young for me.

After a while they joined me, and the boy asked if he could introduce us to his mother. We said, "Yes" and he went off to find his mother.

I thought we would wait for him in Rue 21, but my girl told me that would never do. We had to go to a different store, and he would find us. This was not quite how I remembered things, but we moved on to Bath and Body, and sure enough the young man and his mother soon appeared. Introductions were made.

The mother was a lovely lady, and I quite enjoyed talking to her. After a respectable visit, they left, and when I saw the young man a short while later, he was with a friend. This gentleman was wearing a stocking cap, and he waved and smiled at us (mostly at my CASA kid).

I am glad my grandmother drilled proper manners into all us kids. It was great training to meet modern teens in the mall.

Advocacy Beyond Dependency

by **Ned Letto, Cochise County CASA Volunteer & Ann Fauth JPO**

The Merriam-Webster dictionary has several definitions of what an Advocate is. These definitions are all similar. This is one of those definitions of what an Advocate is: “one that supports or promotes the interests of another”.

When I am appointed as a Court Appointed Special Advocate for a child, I believe my role extends beyond the dependency or delinquency that caused me to be assigned. I believe I am that child’s Advocate as he or she needs me to be. For instance, if a child in a dependency becomes involved in a possible delinquency situation, I assume the role of Advocate in the delinquency as well.

I have had several cases in which I was assigned as a CASA Volunteer as a result of dependency but the child runs afoul of the law and has delinquency charges pending. I have taken the initiative to involve myself in that delinquency matter as well.

I have found that in some cases, CPS has

maintained a hands-off posture with regard to the delinquency matter and will not involve themselves with Juvenile Probation. They will let the delinquency matter run its own course. I have had times when neither CPS nor the foster placement chose to get involved with the delinquency and I have been the only person to accompany the child to a hearing with the Juvenile Probation Officer.

In two cases I was able to have a case dropped by the county attorney because I was able to argue the case effectively to the county attorney and she elected not to pursue the case and the matter was dropped.

If you have not had the opportunity to get involved in a delinquency referral, they usually go like this.

The child is cited by a law enforcement officer and given a citation, which directs them to a hearing on a certain day and time.

This is frequently misinterpreted as an appearance before a judge, but this is a hearing before a Juvenile Probation Officer. The Juvenile probation office is located at 100 Colonia De Salud across from the Court House.

Prior to this appearance, the Juvenile Probation Department will have reviewed the citation and will have made a determination if this is eligible for diversion or if it needs to be reviewed by the County attorney. If the case goes to the County Attorney, the County Attorney has 45 days to decide what course of action should be taken. The County Attorney can drop the case, can send it back to the JPO for Diversion or they can pursue the case through the Juvenile Court. The juvenile is allowed to make a statement prior to submission to the County Attorney; however in some cases there is no communication with the child during this time.

If you are going to advocate for the child prior to the hearing, you need to first contact the JPO office at 520-803-3200 to find out who is

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Advocacy Beyond Dependency (Continued)

by **Ned Letto, Cochise County CASA Volunteer & Ann Fauth JPO**

the assigned JPO and get their contact information.

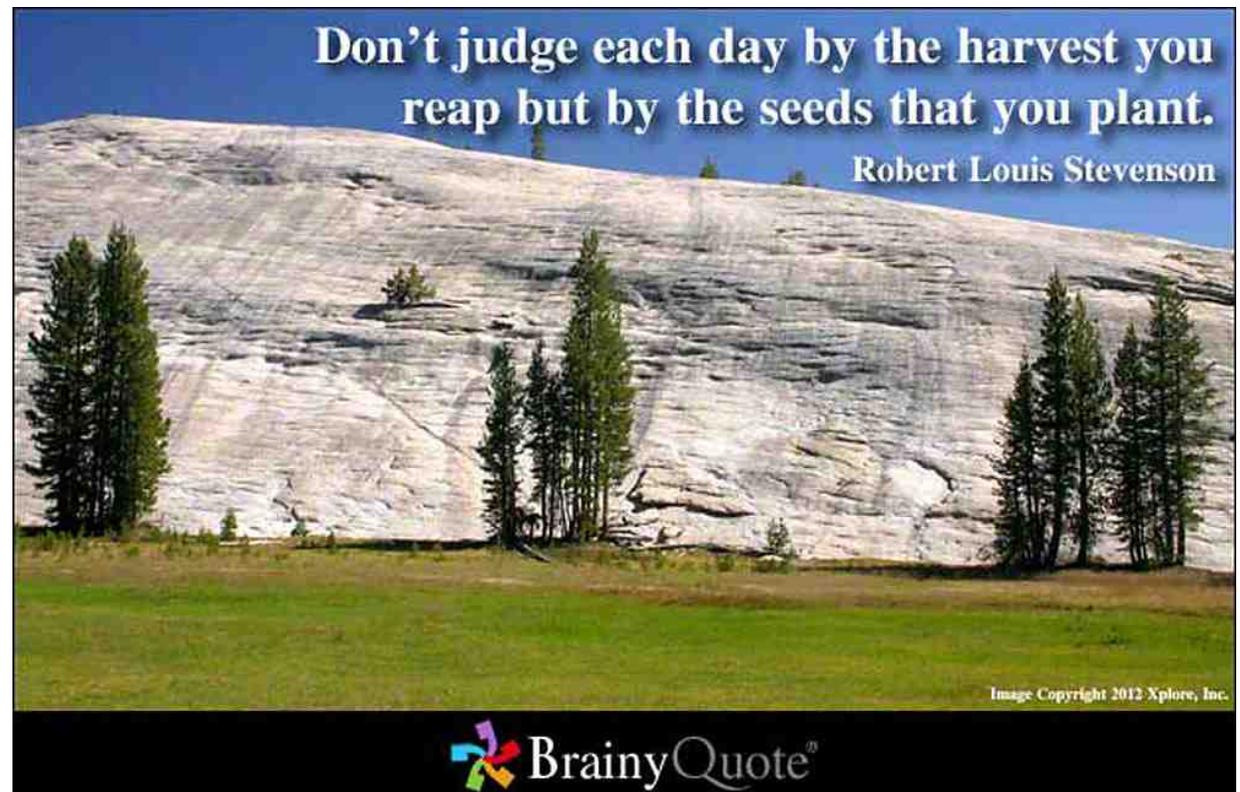
If the case has been sent to the County Attorney's office for a determination, you can contact them at 520-803-3160. This office is located at 100 Colonia De Salud in the same complex as the Juvenile Probation Office and across the street from the court house.

Please keep in mind that they have 45 days in which to make a decision about the case. If you have a strong and compelling reason for them to drop the case or to send the case back to Probation for diversion, I have found them most cooperative to get the case off their desk without having to go through the file with only the limited information at hand.

In some cases you may want to get a copy of the police report that generated the citation. You can go to the police station and use your Court Order to get a copy of the police report. I have found that the police report is often not available for several days after the incident and, in Sierra Vista; I have been

charged \$3.00 for a police report. You will need as much information as possible when requesting the report. The child's name, date of birth, the date of the incident and the number of the police report, if possible.

The word Advocate is described in the dictionary as a noun, but it is also a verb—it's about action, it's about **doing!** It's all about the child—whatever it takes!



Adverse Childhood Experiences

by **Mary Blanchard, Cochise County CASA Volunteer**

Steve Ochs from AzCA is presenting a series of trainings on adverse childhood experiences. Adverse childhood experiences are terribly damaging, and their effect is long-lasting and pervasive. These children frequently adopt risky behaviors as a means of coping with their pain, and they are at risk for disease, mental health and social impairment throughout their lives. But studies are finding that “Adverse Childhood Experiences can last a lifetime but they don’t have to.”

We signed up to be CASA volunteers because we wanted to help children. We wanted to make a difference, and we are making a difference. I am constantly learning new ways to be a more effective CASA volunteer. I know that my kids are at risk, and I seek out trainings that will improve my skills. I have never felt that it was my job to “fix a child,” but it is my job to know my child and to try to understand what makes him/her tick.

Arizona is a leader in doing clinical studies on ACE, and treatment plans have been developed. There now are clinicians who have been trained to identify the ACEs as the cause of trauma and to develop a treatment plan that includes both cause (trauma) and effect (behavior). Medical and other professionals are becoming aware of ACEs, and ideally the whole team working with the child will become part of the treatment plan.

I already knew a little bit about the traumas that affect children, which is why I signed up for this training. The next training is going to address what to do about these traumas. I can hardly wait, and I will ask Joan to send out a flyer as to date, place and time. I will be there, and I invite you to join me.



Joan dazzles with her 'do at the Dependency Attorney Training, March 21st

Cochise County CASA Volunteer Lynn Vanderdasson writes:

When I write a court report, make out the contact log or anytime that I am working on my case, this is what I do. I have pictures of my CASA kids on my desk along with a CASA lit candle and a CASA cup full of coffee. These things remind me of whom I am fighting for and keep me focused on the case plan and goals.



Kudos

Jan and Bud Dragoo

FCRB 2/5/14

The Board commends the CASAs for their continued commitment to SB and continuing to advocate for his needs.

Susan Struck

FCRB 2/5/14

The Board commends the CASA for her continued support and commitment to AM.

The Board thanks the placement and the CASA for their continued support of DM and AM.

Carol and Jim Huddleston

FCRB 2/5/14

The Board acknowledges the CASAs for their continued commitment to VG and EG and continuing to advocate for their best interest.

Mary Blanchard

FCRB 2/12/14

The Board acknowledges the Court Appointed Special Advocate for her investment in working with V and providing her encouragement and direction.

Mary Jacobs

FCRB 2/12/14

The Board appreciated the Court Appointed Special Advocate for her active interest in D and her placement and her time invested in supporting D's progress and well-being.

Ned Letto

Court Hearing 2/26/14

Mr. Mendoza presented the position of the child and thanked the CASA for his hard work.



A MESSAGE FROM ANITA

It is with sadness, but yet a bit of excitement that my husband and I are moving from Sierra Vista to New Mexico, near Albuquerque, soon.

Two of our four children will be our neighbors, as well as 5 of our 6 (soon to be 7) grandchildren. We will be much nearer our daughter and her babies, and my 93-year-old mother. We are excited about being near our family, but so sad to be leaving Sierra Vista and all the many friends we've made over the 31 years we've lived here.

You, My CASA Friends, are among those I treasure and will dearly miss. Of course, my CASA Kids, through these past 16

years, are all dear to me and have taught me so much. I am thankful for the positive impact and personal enrichment this journey as a CASA/GAL has given me. It's hard to believe that this chapter in my life is closing.

However, as I look back, I realize my CASA kids are in good places and my advocacy has helped put them there. That gives me joy and makes it all worth it! I will take many memories of rewarding experiences and fond friendships with me, and hope to keep in touch with the Cochise County CASA program and how you are all doing from time to time.

I wish you all God's best as you continue to make a difference in the lives of the children you touch. May you have the wisdom and discernment to effectively advocate for these kids, and God bless you with patience and faith in the hard decisions and outcomes.

Anita Cogburn



A Fond Farewell to an Esteemed CASA Volunteer -- We will miss you!!

First CASA Volunteer Support Meeting by Support Group Attendees, Cochise County CASA Volunteers

Our first support group meeting was held on Thursday, March 6th at the home of Lynn Vanderdasson. Everyone brought a sack lunch. Lynn had baked cookies and brownies; she also provided drinks.

Early in the meeting, it was mentioned that sometimes a volunteer doesn't want to admit, "I am having problems." We have all been in this position and will be in this position again. We all agreed that a support group exists to support, not to judge.

It was brought up that every CASA volunteer does things differently. And every case is different, so one size does not fit all. A concern was expressed that sometimes the volunteer doesn't know what to do. Our conclusion: "Get used to that feeling." Even the most experienced CASA volunteer experiences this. But every CASA volunteer can begin working on the problem and eventually find out what needs to be done.

Every person present said he/she does not remember all the ways to do things. One person mentioned going directly to the

probation office for information on a case. It is also possible to read police reports. Depending on the age of your child, you might find yourself signing up for training on child development, or checking out what is offered at one of the behavioral health services (generally AzCA or ACTS).

Some important topics that did not come up were working with foster parents and working with the schools. Whatever the issue is, the CASA volunteer needs to jump in (tactfully) and advocate for the needs of the child.

One success story that was shared was how this volunteer investigated all the people who wanted the children and convinced all of them that the foster parents would provide the best home for the children. The foster parents agreed to an open adoption, which allowed the family members to see the children. At the court hearing, the volunteer told the judge that the children were doing well in school. They were happy, settled, stable, and all this would change if they went to an unfamiliar place. She told the judge, "If they were my children, this is what I would

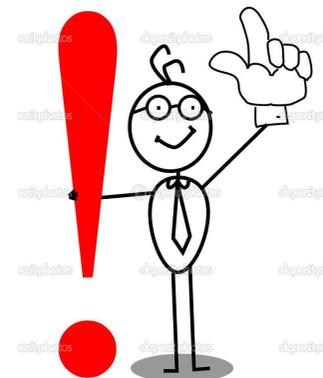
want to happen." Our judge changed the case plan to adoption.

In the words of one attendee: I am so thankful that we started this support group. I learned so much about being a CASA from all of you that attended and was able to share my triumphs and challenges. Thank you. My hope is that more CASA people will come as **everyone** has things to offer and **everyone** has things to learn.

If you weren't able to make this meeting, remember that our mission is to support each other; every CASA volunteer is welcome! Following discussion regarding the most convenient time, it was decided that the support group will be held on the third Thursday of the month. The next meeting will be on Thursday, April 17th from 11:00am to 1:00pm. Call Lisette to verify the location.

Attention CASA Volunteers!

**Come one
Come all...**



...to our second Support Group meeting!

When: Thursday, April 17 from 11:00am-1:00pm

Where: Lynn Vanderdasson's house, 4919 Calle Cumbre

Turn off Hwy 92 onto Snyder. Turn right onto Via Cerrito and right again onto Calle Cumbre. Lynn's house is on the right-hand side of the street.

Bring a sack lunch & a drink!!

Let's get together to know one another better... share ideas, brainstorm problems, and be a part of a group that is committed to CASA and to every CASA volunteer. Our goal is to be there for each other.

CASA volunteers make a difference in the lives of children. Wouldn't a little support from our group make it easier for you to do this?



Review of Netflix Movie – Short Term 12

by **LuRue Troyer, Cochise County CASA Volunteer**

As a movie buff, I keep my eyes and ears open for good films. Some of the best ones are those that receive almost no attention in the press. One such treasure caught my eye in a way that I can't remember now, but I added it to my Netflix DVD queue. I viewed it the other night; it's one I'll recall often. The title is Short Term 12.

The movie takes place at a co-ed foster care facility for at-risk teens. The characters are believable, from the youth housed there to the young men and women who tend and care for them. The counselors seem barely older than their charges and some of them have been damaged in similar ways during their own childhoods. Perhaps that is what makes them so effective in dealing with the trauma experienced by the teens living there.

The counselors appear able to take almost any situation, any attitude in stride, gathering outside one of the buildings occasionally in an informal setting to discuss their situations. They find humor in their otherwise depressing surroundings, giving to and gaining strength from one another.

The compassion shown by the main character for one troubled girl takes her off campus when the girl runs away. It is apparent that the counselor has no plan other than to connect with the girl, making each decision only when she is faced with it.

The writers have done an excellent job in finding gentle humor and showing genuine concern for all the characters. Your heart breaks during the tragic times and soars with the successes. It is a low-key movie about real-life situations. We can only hope that there are many such facilities with similar counselors around the country.

This award-winning movie was released to theaters in August 2013. It is R-rated for language and sexual content. It has received very high praise from various movie reviewers. Unless put off by the reasons requiring an R rating, anyone working with at-risk children will be touched by this movie.

There are a variety of ways to view the film. This website is helpful:

<http://shortterm12.com>

Short Term 12

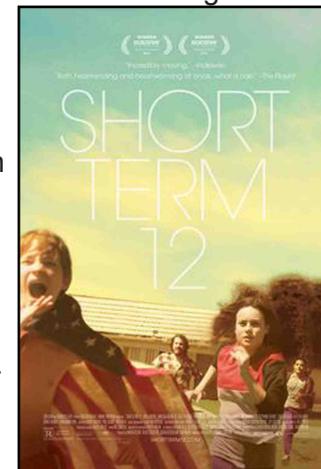
2013 Film

8.1/10-[IMDb](#)

99%-[Rotten Tomatoes](#)

82%-[Metacritic](#)

The story is told through the eyes of Grace, a twenty-something supervisor at a foster-care facility for at-risk teenagers. Passionate and tough, Grace is a formidable caretaker of the kids in her charge - and in love with her long-term boyfriend and co-worker, Mason. But Grace's own difficult past - and the surprising future that suddenly presents itself - throw her into unforeseen confusion, made all the sharper with the arrival of a new intake at the facility - Jayden, a gifted but troubled teenage girl with whom Grace has a charged connection. She and Mason also struggle to help Marcus - an intense, quiet kid who is about to turn 18 - manage through the difficulty of having to leave the facility. Grace comes to find - in both her work and the new teenager in her care - surprising sources of redemption. And while the subject matter is complex and often dark, this lovingly realized film finds truth - and humor - in unexpected places.





Training Opportunity

Now Playing for April

Training Hours can be achieved in many ways. There are training sessions, seminars, webinars, conferences, reading (books, articles, this newsletter, etc) as well as taking online courses and watching TV specials.

The Inconvenient Truth about Waiting for Superman

About this video

On May 19, 2011, The Grassroots Education Movement premiered a new documentary, written and directed by New York City public school teachers and parents, created in response to Davis Guggenheim's highly misleading film. "Waiting for Superman" would have audiences believe that free-market competition, standardized tests, destroying teacher unions, and the proliferation of charter schools are just what this country needs to create great public schools. "The Inconvenient Truth Behind Waiting For Superman" highlights the real-life experiences of public school parents, students and educators to show how these so-called reforms are actually hurting public education. The film discusses the kinds of real reform – inside schools and in our society as a whole – that we urgently need to genuinely transform education in this country.

<http://vimeo.com/41994760>

1:08:52



Reading and writing a summary of this essay is worth 1 hour of training. Send the summary to Joan for credit.

CCCC

Cochise County Council for CASA

is a nonprofit organization that raises funds to the unmet needs of abused neglected and abandoned children in the CASA of Cochise County Program. The primary focus is to ensure that educational progress of CASA children through tutoring and scholarships. In addition the council provides clothing, toys and personal items.

If your CASA child/youth has an unmet need, consider the Cochise County Council for CASA to help!!



Call your CASA Coordinator at 432-7521 **OR**
Send an email to jhansen@courts.az.gov



Arizona Dependency Law

Juvenile law, as any area of the law, is made up of three parts:

1. statutes¹ - passed by the state legislature;
2. court rules promulgated by the state supreme court and
3. case law² - published decisions issued by state and federal appellate courts.

Attorneys frequently refer to the law in the categories of "substantive" or "procedural" which means:

- law which tells one what they may and may not, or must and must not, do
- law which tells one how and when to do it.

Most areas of law in Arizona affect children, youth and families including, but certainly not limited to:

- criminal (juvenile delinquency);
- marital and domestic relations (family);
- transportation (traffic);
- education;
- trusts and estates (guardianship); and
- public welfare.

This paper focuses on the civil child protection law and system known as "dependency" which involves

- the general public;
- certain federal agencies such as the U.S. Children's Bureau and the U.S. Dept. of Health and Human Services;
- the Arizona Department of Economic Security, Division of Children Youth and Families;
- Child Protective Services [ADES/DCYF/CPS, hereafter CPS]; and
- the Juvenile Division of the Arizona Superior Court.

I HISTORY

We start with some basic principals regarding the rights of parents and children and the role of the state.³ In *Stanley v. Illinois*, 405 U.S. 645 (1972) the U.S. Supreme Court reviewed its own history of articulating parental rights

....The Court has frequently emphasized the importance of the

family. The rights to conceive and to raise one's children have been deemed "essential"..."basic civil rights of man"...and "[r]ights far more precious...than property rights."..."It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."...The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment, the Equal Protection Clause of the Fourteenth Amendment, and the Ninth Amendment.⁴ (citations omitted). 405 U.S. at 651.

In *Santosky v. Kramer*, 455 U.S. 745 (1982) the U.S. Supreme Court held that parents' fundamental liberty; interest in the care, custody and control; and management of their child requires that, in state-initiated terminations of parental rights cases, the state must prove its case by at least clear and convincing evidence. See also: *In re Matter of Maricopa Co. Juv. Act. No. J75482*, III Ariz. 586, 536 P.2d 197 (1975).

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Conversely, the state has a right, as *parens patriae* to protect children from harm or potential harm, even from their parents. In *Prince v. Massachusetts*, 321 U.S. 158 (1944) the U.S. Supreme Court upheld a state law which prohibited children under a specified age from selling merchandise in a public place. The law was challenged by the child's Jehovah's Witness guardian who wanted to allow her ward to sell religious magazines on the street. The Court held that the right of the state as *parens patriae* to protect children's safety and well-being outweighs an individual parent's right to determine the religious activities of their children and of children to practice their religion."...[P]arents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves." 321 U.S. at 170. The right to protect children, however, does not necessarily create a duty to do so. *Deshaney v. Winnebago Cty. Soc. Servs. Dept.*, 489 U.S. 189 (1989) is a matter in which the local child protection agency had investigated allegations of abuse to a child but failed to remove, and the father

again abused the child so severely that the child suffered severe permanent damage. The child and his mother sued the agency in federal court alleging a violation of the child's constitutionally protected liberty interests and due process rights. The U. S. Supreme Court held:

...[T]he Due Process Clauses generally confer no affirmative right to governmental aid, even where such aid may be necessary to secure life, liberty, or property interests of which the government itself may not deprive the individual...Although the liberty protected by the Due Process Clause affords protection against unwarranted government interference..., it does not confer an entitlement to such [governmental aid] as may be necessary to realize all the advantages of that freedom....If the Due Process Clause does not require the State to provide its citizens with particular protective services, it follows that the State cannot be held liable under the Clause for injuries that could have been averted had it

chosen to provide them. As a general matter, then, we conclude that a State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause...(citations omitted) 489 U.S. at 197.

Nor, the Court held, does a Constitutionally protected "duty to protect" arise out of the fact that the state agency had at one point intervened.

It may well be that, by voluntarily undertaking to protect Joshua against a danger it concededly played no part in creating, the State acquired a duty under state tort law to provide him with adequate protection against that danger...But the claim here is based on the Due Process Clause of the Fourteenth Amendment, which, as we have said many times, does not transform every tort committed by a state actor into a constitutional violation. 489 U.S. at 202- 203

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II FEDERAL-STATE INTERACTION

Examining the dependency process in Arizona, we see the role of Arizona statutes, Arizona court rules and Arizona case law played out against a backdrop of federal funding legislation and federal court case law. How does the federal government play a hand in what is clearly a state action? Primarily by tying procedural and substantive requirements to funding opportunities. Unless they have an independent income source, children in state custody in out-of-home placement are eligible for public welfare cash assistance, which actually goes to the state agency having the custody of the child.⁵ These children are also eligible for federally subsidized health care which is Medicaid or, in Arizona, AHCCCS⁶. In order for the state to access these resources, federal legislation often requires the states to include certain requirements in state law. A good example of the use of federal funding to influence how state agencies manage their foster care system is the Adoption and Safe Families Act [ASFA]⁷, which first went into effect in November 1997. This law sets standards for removal (state agencies must make

"reasonable efforts" to maintain family integrity but must also give primary consideration to the child's health and safety),⁸ set a requirement for "straight to termination" when "aggravating circumstances" exist to prevent reunification,⁹ require regular court case reviews,¹⁰ encourage concurrent planning,¹¹ and allow alternative case plans such as permanent guardianship¹² and "another planned permanent living arrangement [APPLA] usually known as "independent living."¹³

In addition to Congressional involvement by legislating state policy through federal funding, the federal courts become involved when a person believes that a state statute or procedure violates the U.S. Constitution, or that a state agency has acted in a way that violates the person's Constitutional rights. An example would be *In re Gault*, 387 U.S. 1 (1967) in which the U.S. Supreme Court held that the due process clause of the Fourteenth Amendment applies to delinquency adjudications, including the right to notice of charges, confrontation of witnesses, cross-examination, counsel, and the prohibition against self-incrimination.

IV FILING A DEPENDENCY PETITION IN ARIZONA REPRESENTATION IN DEPENDENCY PROCEEDINGS

The Arizona Department of Economic Security is represented by the Child and Family Protection Division of the Arizona Office of the Attorney General. Attorneys in the Protective Services Section, which is within the Child and Family Protection Division, represents CPS in dependency proceedings throughout the State. Those attorneys provide legal advice to CPS during child welfare investigations regarding whether the circumstances dictate that a Dependency Petition should be filed or whether the child should be returned to the parent or guardian, placed with a parent or guardian other than the one from whom the child was removed or, perhaps, whether CPS could take a voluntary placement agreement for the child.³⁹ CPS, through the Attorney General's Office, also has the option of filing an "in-home dependency petition".⁴⁰

A verified Dependency Petition⁴¹, and all other pleadings in the dependency matter, will be filed by the Office of the Attorney General on behalf of CPS in the Juvenile

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Division of the Superior Court⁴² in the County in which the alleged act of dependency occurred or the County in which the child regularly resides.⁴³ The Juvenile Division of the Arizona Superior Court [Juvenile Court] has exclusive, original jurisdiction over dependency, termination and adoption matters, which means that no other court and no other division of the Superior Court has the power to hear that type of case or enter that type of order without having been assigned by the Juvenile Court. The mandated contents of the Petition are set out by statute and court rule.⁴⁴ The ability to file a Dependency Petition is not, however, restricted to the state agency. A Dependency Petition may be filed by "any interested party."⁴⁵ Often, these "private petitions" are filed by a grandparent or other relative of the child, the child's court-appointed guardian ad litem in a delinquency or a probate guardianship case, or by a licensed child welfare agency other than CPS. The private petitioner will usually ask the court to join CPS as a party to the case and to investigate the allegations in the petition and, sometimes, to take custody of the child pending the first hearing on the Petition.

These requests are made because CPS cannot be required by the court to provide services unless it is a "party."⁴⁶

"Party" in a dependency matter includes, at a minimum, the petitioner (private or CPS) the child, the parents, the legal guardian, and the Indian custodian,⁴⁷ if the Indian Child Welfare Act [ICWA]⁴⁸ applies. Parties have the right to be served⁴⁹ with the Petition and Notice of Hearing and temporary orders, to receive minute entries, attend hearings and present evidence, and to use the subpoena power of the court to compel the attendance of witnesses. In addition to the designated parties, there may be additional "Participants" such as foster parents and CASAs⁵⁰ who will have the right to attend hearings and who may provide information to the Court.⁵¹

Federal law does not require the appointment of counsel for parents in dependency or termination of parental rights matters.⁵² The Child Abuse Prevention and Treatment Act [CAPTA],⁵³ a federal statute related to the funding of child welfare programs, does require the appointment of a guardian ad litem [GAL] for a child alleged to be the victim

of abuse or neglect, to represent the child's interest. The GAL, who may be an attorney, is to "obtain first-hand a clear understanding of the situation and the needs of the child...and make recommendations to the court concerning the best interests of the child".⁵⁴

Under Arizona law, all responding parties (parents, guardians and children) in a dependency matter have the right to court-appointed counsel if they cannot afford an attorney and are determined "indigent" by the Court.⁵⁵ The petitioner, however, is not entitled to court-appointed counsel. In practice in Arizona, all children alleged to be dependent are first assigned then appointed an attorney or a GAL. A child or parent may each have an attorney and a GAL appointed for them.⁵⁶ In some Counties, such as Maricopa, the child's attorney is always assigned and appointed a GAL, and the child may later have an attorney appointed, depending on the circumstances. In other Counties, such as Pinal, Yavapai and Coconino, the attorney is always designated as "attorney". In still others, such as Apache, the attorney may be designated as GAL for very young children and as attorney for older children.⁵⁷

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The roles of attorney and guardian ad litem differ greatly, although the responsibility to the client is very similar. The role of attorney is always to represent the wishes of the client, and an attorney has a "privileged" relationship with the client. The role of a guardian ad litem is to protect the "best interest" of the client and, although the dependency proceeding itself is confidential, no privilege exists with regard to information obtained by or about the client. "Confidential" means that the court, parties, attorneys, the investigating agency, hearing attendees, etc. may not reveal personally identifying information about the persons involved in the case to individuals who are not involved in the case.⁵⁸ Violation of confidentiality may be considered a contempt of court and/or a criminal act.⁵⁹ "Privilege" means that the attorney cannot reveal information related to the representation of the client without the client's specific permission—with certain limited exceptions such as the need to prevent the commission of a crime. Violation of privilege could lead to a State Bar disciplinary action against the attorney.⁶⁰

The term "best interest" may well be a subjective determination of the GAL, and

may be based on personal values, philosophies and experiences. Best practice would indicate that the GAL should employ all available resources in determining what will be presented as being in the "child's best interest" including personal contact with the child, direct contact with such as CPS, therapists and law enforcement, and direct consultation with experts as needed. The GAL should be prepared to explain how the position was reached: who was interviewed; what documents were reviewed; what alternatives were considered and what criteria were utilized, including why the child's requests are not in the child's "best interest".

The Arizona Legislature has recently mandated that attorneys and GALs appointed for children in dependency proceedings must meet with the child client before the first hearing (the Preliminary Protective Hearing) if possible, or within fourteen days after that hearing.⁶¹ The attorney and/or GAL for the child shall also meet with the child before all substantive hearings unless the judge "upon a showing of extraordinary circumstances" modifies the requirement "for any substantive hearing."

There are also training requirements for these attorneys and GALs.⁶² Note that these requirements do not apply to retained counsel—only to those appointed by the Court to fill these roles.

If the child who is the subject of the Petition has been removed by CPS from the custodial parent or guardian and cannot be safely returned to at least one parent or guardian, the verified Dependency Petition must be filed within 72 hours of removal, exclusive of weekends and holidays.⁶³ There is no time limit for filing a Petition regarding a child who remains in the custody of the custodial parent/guardian but, of course, the Court has no "jurisdiction" to enter orders regarding the child until and unless a Dependency Petition is filed. The Petition will be filed along with proposed orders making the child a temporary ward of the court in the legal custody of the Department. If the child is placed with a parent or guardian ("In-Home Dependency"), the orders would give physical custody of the child to that parent. If the child is placed with someone other than a parent ("Out-of-Home Dependency"), physical custody of the child would be awarded to the Department (if the placement

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is licensed) or to a named individual (e.g., an unlicensed relative or other person with a significant relationship with the child.)⁶⁴ These temporary orders also include a Notice of Hearing setting hearing dates, language notifying the parties of certain rights, and responsibilities and orders assigning counsel for the parties."⁶⁵ The requirements for the Notice and the requirements for service are set out in Juvenile Court Rule.⁶⁶

1 See: Arizona Revised Statutes at: <http://www.azleg.state.az.us/arizonarevisedstatutes.asp>

2 See: Arizona Rules of Procedure for Juvenile Courts at: <http://government.westlaw.com/linkedslice/default.asp?SP=AZR-1000>

3 See: Arizona Supreme Court and Court of Appeals opinions at: <http://www.azcourts.gov/opinions/Home.aspx>

4 For an excellent review of the historical and federal perspective on child welfare law, see: *Child Welfare Law and Practice*, Donald Duquette & Ann Haralambie, 2d ed. Bradford Pub. Co, 2010.

5 42 U.S.C. §670 et seq. title IV-E of the Social Security Act.

6 42 U.S.C. §§1386-1396v.

7 Pub. L. No. 105-89, III Stat. 2115

8 42 u.s.e. §671(a)(1S)

9 42 U.S.C. §671 (a)(1S)(D)(i)

10 42 U.S.e. §67S(S)

11 42 U.S.C. §671(a)(1S)(F)

12 42 U.S.C. §67S(7)

13 42 u.s.c. §67S(S)(C)

36 ARS §8-513(C)

37 ARS §41-192(A)(I)

38 ARS §8-514.02

39 ARS §8-806

40 ARS §8-891

41 ARS §8-841(B) "verified" means that the truth of the contents is sworn to by the petitioner.

42 ARS §8-202(B). The juvenile court has exclusive original jurisdiction over all proceedings brought under the authority of Title 8 except for delinquency proceedings. The juvenile division has jurisdiction - but not exclusive over delinquency matters. The Juvenile Division of the Arizona Superior Court was created in 1970 by Ariz. Sess. Laws, ch. 223, § 2 (codified at ARIZ. REV. STAT. ANN. §§ 12-145 to-147, 8-201 to -207, -221 to -227, -231 to- 237, -241 to -248, 8-201 (2009)).

43 ARS §8-206

44 ARS §8-841(B); 17B A.R.S. Juv.Ct.Rules of Pro c., Rule 48(A)

45 ARS §8-841 (A)

46 ARS §8-825(D)(2)

47 17B A.R.S. Juv.Ct.Rules of Pro c., Rule 37A.

48 "ICWA" the Indian Child Welfare Act of 1978 25 U.S.C.

§§1901-1963. See: Section VII - ICWA, *infra*.

49 "Service" means that the Petition, Notice of Hearing and temporary orders must be "delivered" to the party personally or by mail within certain timeframes. ARS §8-841 (C); 17B A.R.S. Juv.Ct.Rules of Proc., Rule 48.

50 CASA means Court-appointed Special Advocates. See: ARS §8-522-3.

51 17B A.R.S. Juv.Ct.Rules of Pro c., Rule 37B.

52 *Lassiter v. Department of Social Services*, 452 U.S. 18(1 1981)

53 Pub. L. No. 93-273, 88 Stat. 93; 42 U.S.c. §5101-51 19; Pub. L. No. 108-36, 117 Stat. 800

54 42 U.S.C. §51 06a(b)(2)(A)(xiii)

55 ARS §8-221; A strict reading of this statute would only require a guardian ad litem for children who are alleged to have been abused or neglected, while the statutory definition of a "dependent child" includes children who have been abandoned, and children who have committed certain delinquent offenses but are too young to be adjudicated.

56 17B A.R.S. Juv.Ct.Rules of Proc., Rule 40

57 *Hearing Their Voices: Children and Their Representation in the Dependency Court*, Children's Action

Alliance, February 2008. <http://www.azchildren.org/MyFiles/pdf/hearing%20their%20voices.pdf>

58 ARS §8-807

59 ARS §8-8221 (1)

60 17A A.R.S. R. Supreme Ct., Rule 42, Arizona Rules of Professional Conduct, Preamble, states that as a representative of clients, a lawyer performs various functions including advisor, advocate, negotiator and evaluator. ER 1.2(a) states: "A lawyer shall abide by a client's decisions concerning the objectives of representation ..." ER 1.6 states: "A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized ... to carry out the representation, and except ... to the extent the lawyer reasonably believes necessary to prevent the client from committing a criminal act ... a lawyer may reveal the intention of his client ... and the information necessary to prevent the crime ... "

61 ARS. §8-221(J); 17B A.R.S. Juv. Ct. Rules of Proc. Rule 40.1

62 17B A.R.S. Juv. Ct. Rules of Proc. Rule 40. I (I)(I)

63 ARS. §8-821(F)

64 17B A.R.S. Juv.Ct.Rules of Pro c., Rule 48 (B) states: "When the interests of the child require immediate action, ... the court may enter an order making the child a temporary ward of the court pending the hearing ... [and] may issue temporary orders necessary to provide for the safety and welfare of the child "

65 17B A.R.S. Juv.Ct.Rules of Proc., Rule 38

66 17B A.R.S. Juv.Ct.Rules of Proc., Rule 48 (C) and (D)

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