

July 14, 2020 – Criminal Court Project

Panelists: Fran Feinberg & Katrina Valiente

- The Criminal Court Project is located in Kristi House (across from the State Attorney's office and 2 blocks from the Criminal Courthouse).
- Although a part of the GAL program, the Criminal Court Project is not funded by the statewide GAL program. Fran Feinberg's position is funded through Voices for Children and Katrina Valiente is a county employee.
- Children who are witnesses or victims of a crime are those on whose half we advocate.
- There are 2 types of cases: 1) cases that have a companion dependency case where the parent/custodian is accused of a crime; or 2) children without an open dependency who are victims of a crime or witnesses of a crime.
- If you are a GAL with a criminal companion case, you cannot speak to anyone (attorneys, etc.) without speaking first to Fran or Katrina.
- Always be on the lookout for a criminal component to your case.
- The Criminal Court Project only deals with felony cases -- no misdemeanors.
- Communication between the two court systems (Dependency and Criminal) is very important. It keeps the state and the criminal court judge informed on what's happening in the dependency case. They are able to incorporate case-plan tasks into PTI (Pre-Trial Intervention) plans or probation requirements. It also lets the state be aware of progress/ compliance with services and tasks.
- When going to trial, they will always try to hold the child's deposition last. They always try to resolve the case first before subjecting a child to a deposition. Someone is always present with the child during the depo (preferably the GAL, if still active) since criminal cases take much longer to resolve (oftentimes years). It would be very helpful in the criminal case if you, the GAL, keep in touch -- even just occasionally with the child. They need to know the whereabouts of the child and how he/she is doing when a case is ready for trial. Remember, a case may go to trial years after the dependency case is closed. If having to testify in court is upsetting or traumatic for the child, they can get the child back into therapy.
- If there is a no-contact order in criminal and dependency and the dependency judge lifts the no contact order so visitation can occur, the dependency court outweighs the criminal court. Just let Fran/Katrina know so they can advise the criminal judge to lift the no contact in criminal.
- In Dependency Court, GAL is a full party to the case. In Criminal Court, GAL is a limited party whenever something has to do with the child. The biggest issue is getting notice of anything concerning the child- - hearings, depositions, etc. The SA (State Attorney) sends out notices to all people to "stand by" for hearing, trial, etc. A child should NOT be coming to court unnecessarily. That is why getting noticed is so important.
- A child should only be deposed 1 time -- there is an administrative order to that effect. Present at the child's depo will be the prosecutor, defense attorney (who is conducting the depo), the GAL (or Fran/Katrina), and watching on video is the dependency attorney. During the deposition, the questions are asked by the defense attorney. The ASA (Assistant State Attorney) may ask follow-up questions. All depositions are videotaped, and a court reporter is always present.

- When determining if a child is able to testify in open court or by closed circuit TV, an evaluation is made by a psychologist. It is a very limited evaluation and used only to determine IF a child can testify and HOW. It must be a current evaluation so there must be a trial certain date. The burden of proof in criminal court is much higher than in dependency -- so a child testifying in open court is best for the case, when possible. If the testimony must be closed circuit, everyone is usually in the courtroom and the child is in another room with the GAL/Fran/Katrina during testimony.
- If you have a dependency case where a parent/custodian is charged with failure to protect, and you believe that parent is still in contact/supporting the charged party, Fran or Katrina are able to get copy of jail visits/ phone calls.
- As trials resume, new cases will increase significantly.
- The Criminal Project uses your dependency reports as a tool for services and to be updated as to compliance/non-compliance and progress.
- If a parent is taking a pre-trial intervention plea, they need to start services immediately. Fran/Katrina will work with the SA to supply tasks as part of the plea. (They often mirror case-plan tasks). This is particularly effective if you have asked for services in dependency and they were denied. Talk to Fran/Katrina to try to have them included in PTI or probation requirements.