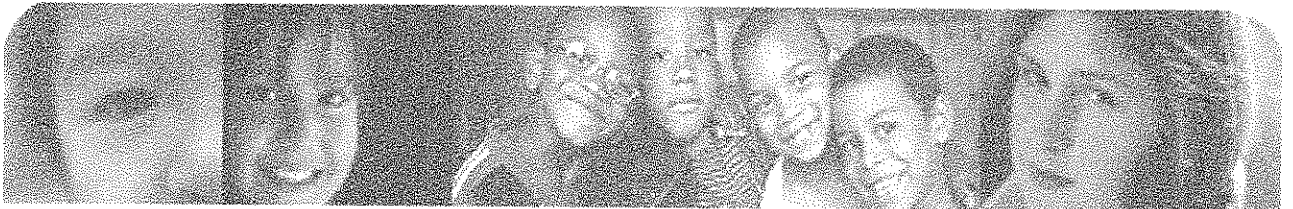


**MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM, SPRING 2014
PROFESSOR KALDIS**



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1.) You have been appointed to represent thirteen-year-old Teddy Lamaris, charged with delinquency by reason of the attempted murder of Manny Palmer, a twelve-year-old classmate.

After an interview with your client, you have discovered the following facts:

On April 22, Teddy was visiting thirteen-year-old Nick Eldridge, his next-door neighbor. Teddy visits at the Eldridge home often, especially when he has an argument with his mother. Teddy's mother and father divorced when he was two, and his father then moved out of state and remarried. Except for an occasional holiday visit, Teddy has had no contact with his father. Mrs. Lamaris has been treated for depression and substance abuse over the years. She lost custody of Teddy for about eight months when he was ten, but he was returned after Mrs. Lamaris underwent therapy and obtained a full time job as a hairdresser. During that time, the Department of Children and Families offered to place Teddy with Mr. Lamaris but Mr. Lamaris refused, so Teddy was placed in a foster home. Though she still works, Mrs. Lamaris has had a hard time coping with the loss of her boyfriend, Joseph, who died in a car accident a year ago. She had been going with Joseph for seven years. According to Teddy, she has been drinking heavily since Joseph's death. He frequently fights with her about it—on several occasions the neighbors called the police but “the cops didn't do anything”. Apparently, Teddy gets upset when she drinks, they begin fighting, and she usually hits him or banishes him to his room. Several weeks ago, Mrs. Lamaris burned Teddy on the arm with her curling iron. She was drinking, and preparing to go out, and Teddy was upset because she had promised to cook his favorite lamb dinner but there was only pasta. When she raised her hand to push Teddy away, she accidentally burned him in the arm. He told his teacher about it the next morning, but, according to Teddy, nothing was done.

On April 22, Teddy, Nick and Manny were in Nick's backyard riding Nick and Manny's dirt bikes. They had just eaten lunch at the Eldridge' home—it was school vacation. Mrs. Eldridge and Nick's younger sister, Tina, age four, were in the house. Nick and Manny were taking turns letting Teddy drive, as he did not own a bike. At one point Teddy was on one bike and Manny and Nick were on the other, when Teddy overheard some conversation about the two being best friends. He became jealous, but did not say anything. About three o'clock in the afternoon, Manny was preparing to ride his bike home through the field. He asked Nick to accompany him. Nick asked Teddy to ride with them. At first Teddy refused, because he was angry at the earlier comments, but then he asked them to wait while he went into his house to leave his mother a note. After leaving the note, Teddy went up to his bedroom on the second floor to go to the bathroom. When he got out of the bathroom, he could hear two boys' laughter from outside. He proceeded into his mother's room where he could see the two boys seated on the bikes, waiting for him. He then took from his mother's closet a hunting rifle belonging to her late boyfriend, Joseph, along with the ammunition. Mrs. Lamaris had not thrown any of his belongings out and left them exactly as they were. Joseph had frequently taken Teddy hunting with him, so Teddy knew how to handle the rifle. Teddy

loaded the rifle and stepped to the window. He then fired at the boys once. The shot hit Manny in the shoulder, injuring him. Because the window broke, Teddy was also hurt—he sustained cuts on his face.

Manny was rushed to the hospital and the police were called. They took Teddy to the station, where he remained from four o'clock until nine. During that time he asked for and was given a coke. His mother came to the station at 6:00 p.m. after the police called her at work at 4:15 p.m. She had been drinking, according to Teddy. Miranda warnings were read to both Teddy and his mother. Teddy had not discussed the incident before the warnings were given. Because he was angry with his mother, Teddy refused to talk over with her whether he should cooperate and speak with the police. He decided to “tell the truth”. He was then questioned, and ultimately signed a typed statement at about 8:00 p.m. This statement covered all of the above facts related to the shooting, but Teddy did not tell the police about his mother abusing him. Teddy also stated that he had not planned to shoot Manny, but when he heard the two boys laughing he became enraged and thought he would try to “scare” them.

a.) Teddy feels extremely remorseful for shooting Manny, and tells you that he thinks he needs “help”. Advise him as to all of his rights. He asks you if there is a possibility he can “get off”, and wants to know what your pretrial and trial strategy will be. He also wants your advice on whether he should take a plea or not. What will be your representation strategy concerning this delinquency case? Would you recommend any other legal actions concerning Teddy? Explain why or why not.

b.) Assume Teddy is 16. Does your answer change? How?

c.) Assume Teddy is 16 and you have just heard that Manny died in the hospital. Does your answer change? How?

2.) Halley Wright is a fifteen-year-old high school junior at Andover High School. Her mother died of breast cancer at the beginning of her freshman year. She lives alone with her father, Thomas Wright, a CPA who runs his own business. When her mother was suffering in the end stages of her disease, Halley’s parents frequently sent her during school vacations to stay with her maternal uncle Mark and his family. She still spends her summers with them. Uncle Mark has been a big influence in Halley’s life - he sent her letters almost as soon as she learned to read. Halley keeps a scrapbook with pictures of Uncle Mark’s family and herself, along with the letters.

This past summer, Uncle Mark helped Halley construct her web page, “Buffy The Wizard Killer.” Halley’s page proclaims the extremes of white Christianity. Her site contains links to the National Association for the Advancement of White People, the American Patriot Network, and the Aryan Nations site. Her theme as the “Wizard Killer” is to “take a stand” against others that try to “impose their self-righteous beliefs” that she

should 'embrace and tolerate' all others' "beliefs and evil behaviors."

In the first month of this school year, Halley has received six detentions, mostly for her behavior; two were for not submitting assignments. Her disruptive behavior in school appears to be directly linked to her religious and political sentiments. Many times, especially in English class, she has been sent to the principal's office for disrupting the class. For example, one morning she insisted upon standing up and reciting the Lord's prayer in English class, over her teacher's objections that this was both a disruption and a time constraint as this was not a home room period but was a substantive class. Halley feels that the teachers do not allow her to voice her own interests, that she is not hurting anyone, yet she constantly gets kicked out of class, or is given detentions, mostly from her English teacher, Mr. Page. The last incident happened when she submitted an essay arguing that gay kids deserve to be bullied. Mr. Page refused to accept it, and Halley refused to give him another assignment. She was then given an F for the assignment, sent to the principal's office and given a detention.

While Mr. Wright has spoken with Mr. Page and the Principal, Virginia Adams, he is extremely busy with his practice. Halley has her religion, her close ties to his wife's family, and has maintained honor grades; Mr. Wright does not understand the school's concern about her behavior. While not a "churchgoer," as he says, he owes a debt of gratitude to Mark, as he helped Halley to deal with her mother's death. Mr. Wright is also grateful for the time Uncle Mark and his family spends with Halley; even during the school year they stay in touch by phone or e-mail.

Halley is currently running for class president, and her slogan is "Wright is right". Mr. Page overheard Halley chanting her slogan, and insisted she said: "White is Right." Halley is also passing out flyers to some students with her web site address. Mr. Page informed the Principal, and Mr. Wright was called for the third time about his daughter's uncontrollable behavior. Mr. Wright asked specifically what school regulations was Halley violating. He was told that Halley had persistently and repeatedly violated the school's Harassment and Intimidation Policy, which was spelled out in the handbook that both Halley and her father had signed, acknowledging they had read and understood all of its provisions. When Mr. Wright stated he did not remember it specifically, although he did sign some things at the beginning of the school year, Ms. Adams read to him the policy, which stated in pertinent part that " student(s) shall not harass or intimidate another student(s) by name calling, using racial or other derogatory slurs, wearing or possessing items depicting or implying racial or other hatred or prejudice, nor shall they at school, on school property or at school activities have in their possession any kind of material that is racially divisive or that creates ill will or hatred." Officials were allowed to use "appropriate disciplinary action," from after school detention to suspension and possible expulsion depending on the severity of the offense. Because Halley had never directly threatened or intimidated any of the students, she had only received detentions thus far.

What the school would have liked Mr. Wright to do, but he refused, was to either put Halley in some sort of therapy or to discipline her. The school, therefore, has decided to file a petition in Juvenile Court alleging that Halley is a child who has persistently and repeatedly violated the lawful and reasonable regulations of the school, and therefore requires assistance from the court to help her with this behavior. Halley insists she has done nothing wrong, and that she had the right to voice her own opinions and beliefs.

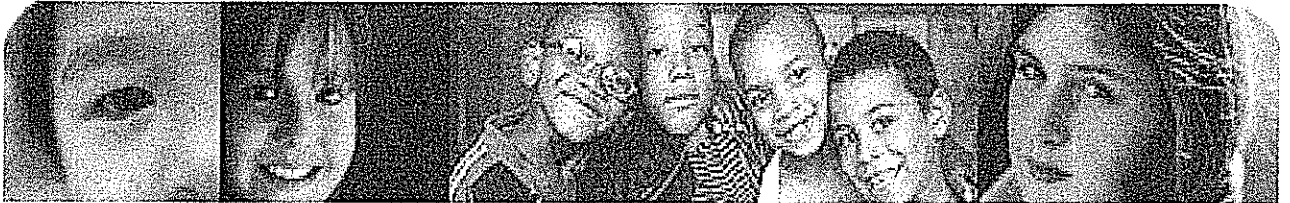
- a.) What will you do with this case if you are the judge?
- b.) What arguments would you make on Halley's behalf if you represented her?

3.) Twelve-year-old Anile has been diagnosed with a childhood cancer that requires a course of chemotherapy, radiation, and a stem cell transplant. Her parents, Leo and Sandy Doyle, are opposing this course of treatment. Leo's younger brother had a similar disease when he was eight, underwent intense treatment that kept him out of school for a year, and ultimately died when he was nine. Sandy had a child by her first marriage, Nadia, who died at two years old from complications resulting after treatment for brain cancer. Anile is Leo and Sandy's only child, and they are devoted to her. Sandy, who used to be a first grade teacher, runs a day care center out of their home, and Leo is a licensed electrician running his own business.

When they initially received their daughter's diagnosis, the Doyles took her to Children's Hospital where Anile began receiving chemotherapy on an outpatient basis three times a week. They were told that Anile would get worse before she got better, and they say they understood that, having been through something similar before. For three months, they took her consistently, never missing a medical visit, never late, never complaining about the quality of care. Anile was very sick during that time, mostly from the chemotherapy itself. She experienced intense headaches, vomiting, diarrhea, and muscle pain. She missed a lot of school as well. At around the three-month mark, most of these symptoms subsided, and Anile began to be herself again, playing with the other children at the day care, eating and sleeping well, and attending school consistently. Because the cancer was still there, Anile's doctors urged the Doyles to bring her in for the required radiation, the next step, and afterwards the stem cell transplant. The Doyles have refused, and the hospital has filed a 51A report, which was screened in.

- a.) You represent the Department of Children and Families. What should you do?
- b.) You represent the Doyles. They insist they know what is right for their child, and she is happy now and not suffering. Advise your clients as to their rights and liabilities, taking into account all possible outcomes.
- c.) You represent Anile. She says she heard in her science class and through her own online research that most childhood cancer can be cured. She says she wants to live, not die like her parents' relatives. Discuss your representation strategy, including any issues regarding your role as counsel for the child.

MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM, SPRING 2013
PROFESSOR KALDIS



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QUESTION 1

“My mom was only 12 when she had me. My dad was not around much, cuz he had to go to jail for making my mom pregnant. My mom and I, we were in foster care together. Then we lived in a motel with my grandmamma when mom was 14, grandmamma 34, and I was 2. Don’t remember that much, except grandmamma shootin up, mom with guys that looked like dad, and playing outside with no shoes on... Then there was my stepdad Joe – he used to hit me, and mom had to take me to the eye doctor once cuz sometin happened to the inside of my eye, my retina, when he hit me. But that was nothing compared to what he did to my half-brother Joseph when he took him in the bedroom. But I don’t need to be ‘fraid of Joe no more cuz he blew his brains out right in front of me and Joseph one day cuz they was comin to arrest him.”

These are the words of your 15-year-old client, Frank Michaels.

On March 14, 2013, Susana, Frank’s mother, left him to babysit his 2-year-old and 5-year-old half brothers. When Susana came home, 2-year-old Chris was badly bruised and unconscious. Rather than immediately seek medical attention, she spent eight and a half hours on-line researching concussions and head injuries. (Susana was charged with manslaughter; she pled guilty and is facing some jail time). The child was ultimately taken to the hospital, where he died. After Frank allegedly made statements to the police that he slammed his brother against the bunk beds, he was indicted for first-degree murder. He was also charged later with sexual assault against his 5-year-old half-brother. (This charge has been dismissed; DCF has filed a Care & Protection case alleging Susana neglected the boys and that her current live-in-boyfriend Thomas sexually assaulted Joseph, the 5-year-old.) Frank has been in DYS custody ever since. He was tested at the Juvenile Court clinic and has a high IQ; however, his standardized test scores in language and math fall far below his peers as he has been in and out of school for so long.

You are considering filing 2 motions: a motion to suppress and a motion to dismiss the indictment. State your reasons why you are filing these 2 motions. Why should Frank’s statements to the police be suppressed? State all of your reasons why this child’s adult murder case should be dismissed – legal, historical, scientific and humane. If you are unsuccessful, predict how the Superior Court might decide based on the above facts, and what sentence Frank might receive and why.

QUESTION 2

You just received the following phone call:

“My daughter Kathryn is a wonderful 16-½ -year-old who is not guilty of anything other than a high school romance, but the school is disciplining her and taking her to court because she has a girlfriend, Zoe, who is 14. Kathryn is in her senior year and Zoe is a freshman. Zoe’s parents have filed a police complaint and are pressing charges because they are against the same-sex relationship, even though their daughter has stated that this is a consensual relationship. The two girls began dating a year ago. Kathryn is a highly respected student at Lawrence High School with good grades and participation in cheerleading, basketball and chorus. Now her coaches have kicked her off the teams; only her music teacher supports her. She has received at least 6 detentions and one in-school suspension because of her “aggressive behavior” as the vice principal has stated. Kathryn tells me her behavior that has resulted in these disciplinary measures is merely reactive: “They always start with me, calling me names, making fun of me and Zoe too – they push me to the point I just want to hurt them.” The principal has told me he is going to file a case against her in court because she has constantly disobeyed school rules. He also said that if a criminal complaint or indictment issues as a result of Zoe’s parents’ complaint, he will suspend or possibly expel her. Kathryn had started her college applications as well – who knows now if she will ever go to college. Our family will do everything we can to stop these people from ruining our daughter’s promising life. This is unjust and unfair - and we need your help to stop it.”

You are going to meet with Kathryn and her parents tomorrow because they want to hire you as Kathryn’s lawyer for any school disciplinary issues and procedures, and any criminal cases against Kathryn. In preparation, prepare a summary of her rights and liabilities, and also predict what the school and the court system might do with her case.

Question 3

You are a lawyer for the Department of Children and Families. One of the social workers in your office, Francine Ferry, just filed a Care & Protection case in Juvenile Court. Explain how you will be able to meet your burden of proof at the 72-hour hearing. If DCF continues to have custody after the hearing, what duties does the agency have for this family? What other hearings and procedures are likely to be held by DCF and the court before the trial? What is the goal likely to be when the case is ready for trial? Predict how the Juvenile Court might rule and why, if DCF moves for termination of parental rights.

Ferry's affidavit states the following:

I, Francine Ferry, upon information and belief, take oath and state:

1. I am a social worker for the Department of Children and Families, Salem Area Office, 108 Main Street, Salem, Massachusetts.
2. I started working for the Department of Children and Families in July of 2000.
3. I was assigned to the Marlow/Landers case on May 15, 2013.
4. On May 14, 2013, at 4:08 PM, a 51 A was filed by a mandated reporter on behalf of Teddy Landers, DOB 1/24/13. Teddy's parents are Annie Marlow (DOB 2/22/82) and Peter Landers (DOB 8/2/72). The report indicated that on May 12, 2013, Catherine Marlow brought her daughter Annie Marlow to North Shore Medical Center (NSMC). Annie was reportedly confused and paranoid.
5. Annie made several concerning statements including one in Mr. Landers was going to kill her, the baby and himself. Annie was subsequently admitted to the inpatient psychiatric unit and diagnosed with Psychosis NOS with R/O Postpartum Psychosis/Depression.
6. The 51A Reporter described Annie as being disorganized and experiencing auditory hallucinations. The 51 A report indicated that Peter Landers also has a history of psychiatric hospitalizations of his own and has significant mental health issues.
7. The report also stated that the family is residing in an overcrowded apartment with several other people, and that the living environment was not healthy for the mother or the baby.

8. On May 18, this worker spoke to Chris Saris, clinician at NSMC, who reported that mother was still symptomatic, shows no interest in the baby, and is "...kind of a mess..." Mr. Saris reported that maternal grandmother, Catherine Marlow, could no longer care for the baby due to personal issues of her own.

9. On May 18, at approximately 12:30 PM, this worker went to the home of Catherine Marlow. The baby looked well cared for. Mrs. Marlow showed worker a bottle of gas relief drops and children's Motrin that mother had for the baby, however there was no prescription or orders attached. Mrs. Marlow does not know why her daughter has this medication for the baby and did not give it to the baby stating that he is healthy and does not need it. Mrs. Marlow reported that Annie and Peter moved to Florida over the winter because they had no heat in Salem. The baby was born in Florida; she did not know what town. Mrs. Marlow reported that they were living with Peter's stepbrother Robert Landers until they were kicked out because Peter threw a beer bottle at Robert's wife. Mrs. Marlow reported that every time she called Annie she could hear the baby "screaming" in the back ground, and when she would ask what was wrong Annie would reply "I don't know."

10. Maternal grandmother, Catherine Marlow had been providing care for the infant Teddy Landers since his mother Annie's admission. On May 18, Mrs. Marlow reported that she could no longer keep the baby. She stated her daughter "...wants to go back to Peter Landers and I can't stop her..." Mrs. Marlow also reported that her daughter Annie disclosed a history of domestic violence between them.

11. Mrs. Marlow reported that the day she had her daughter admitted she saw bruises up and down her daughter's arms but Annie would not tell her or the nurse what happened to her. Mrs. Marlow also reported that when she had Annie admitted, Annie was angry at her and said that she was "wrecking their plan, they were all supposed to be dead, Peter was going to kill them, they were supposed to be in heaven." Mrs. Marlow felt that the baby would be safer in the Department's care and asked that social worker come and pick up the baby. She said that Peter could hurt the baby.

12. Mrs. Marlow also reported that Annie called her on May 10, 2013, asking if she and the baby could come over. Annie kept calling her hour after hour saying that she and the baby were coming but they never came. She said that Annie called her at 4:45 PM that same day and stated that Peter got mad at her and left. She also stated that she needed to find him.

13. Later that same evening, Mrs. Marlow stated that she called Annie and that Peter answered the phone. He stated that Annie was at Dunkin Donuts. Mrs. Marlow asked Peter to have Annie call her when she gets home. Mrs. Marlow reported that she waited up until 10:45 PM but Annie never called her. She then called her daughter again and Peter refused to let her speak with Annie.

14. The next morning Peter called Mrs. Marlow stating that Annie is a "mental case." He dropped Annie and the baby off at her home saying, "Here, you can handle

her." Mrs. Marlow reported that Annie was unstable, talking about Peter's plan for them all to die and go to heaven.

15. Mrs. Marlow reported that when she went to get the baby a playpen Annie told her to "let the baby sleep on the floor, he is supposed to die anyway." Maternal grandfather, Glen Marlow reported that Annie attempted to leave him with the baby saying, "...I need to go die...find Peter..." Mr. Marlow called his wife at work, who returned home and took Annie to the hospital.

16. On May 18, 2013, at 4: 11 PM this worker spoke to Annie Marlow over the telephone to explain that the baby was taken into the Department's care. This worker explained several times the concerns for the baby's safety, however Annie did not seem to comprehend. She presented as confused, asking, " how could you have taken my baby? What does your company think of that". Worker attempted to explain that DCF as an agency felt the baby's safety was at risk. Worker talked to Annie about getting help and engaging in treatment. Annie said, "I'm not taking pills. I don't need help. I was just stressed." Annie stated that she was being discharged and going to live with her mother and with her baby. Worker explained to Annie again that the baby was in foster care. Worker also attempted to explain court proceeding to Annie.

17. On May 19, 2013, this worker spoke to Peter's brother Robert Landers who reported that there was an altercation between he and Peter, which resulted in his asking the family to leave his home. He denied that a beer bottle was thrown. He reported that Peter has problems and needs help. He reported that Peter and Annie had arguments. He reported that the family lived with him for 6 months. The baby was born in Orlando, Florida.

18. On May 19, 2013, this worker spoke to Peter Landers, who reported that he is now living at 48 Ayer Street in Salem. Prior to that they were living in Danvers for three weeks with friends. Peter stated that he is on SSI disability and does not work. Social worker informed him that the baby was taken into the Department's custody yesterday due to safety concerns. Peter became angry; he asked worker what that was based on. Worker explained concerns noted in the 51A report that he would kill himself, Annie and the baby. Peter stated, "that's crazy, Annie is a sick girl, and the Dr. should not have reported that." He made the statement that he has never been abusive to Annie, however worker never asked him about domestic violence. Peter said that he would do whatever it takes to get the baby back. Worker informed him that there would be a court hearing to determine the custody status.

For the reasons enumerated above:

1. The Department believes that Teddy Landers remains at continued risk of neglect by his parents Peter Landers and Annie Marlow.
2. Continued placement in the home is contrary to the welfare of the child.

3. The Department has made reasonable efforts to prevent or eliminate the need to remove the child.

Signed under the penalties of perjury this 19th day of May 2013.

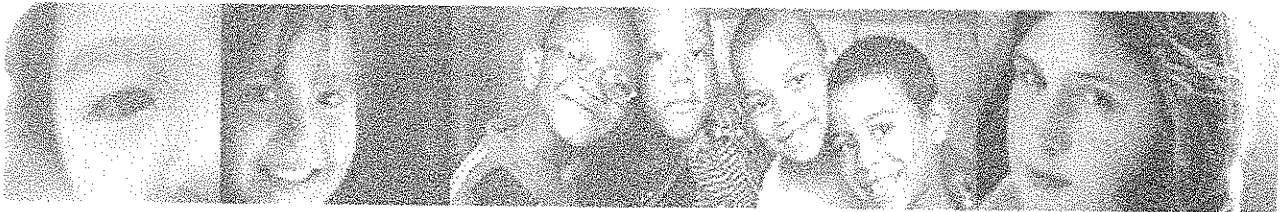
Francine Ferry

Francine Ferry, MSW, LCSW

Social Worker

Department of Children and Families

**MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM, SPRING 2012
PROFESSOR KALDIS**



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QUESTION (1)

The following question is based on a real case, although some facts have been changed or added. Assume the events occurred on or after January 2012.

Flannery Mullins was indicted as a Youthful Offender, by a Hampshire County Grand Jury upon a two count indictment charging one count of violation of civil rights with bodily injury resulting and stalking. Mullins was thereafter arraigned for the above violations; she also has delinquency complaints for the same offenses and for disturbing school assembly. The offenses are said to have occurred at South Hadley High School in South Hadley, Massachusetts, or upon adjacent property. Mullins is one of five students charged following the suicide of Phoebe Prince, a fifteen-year-old freshman at South Hadley High School.

The probable cause statement that the Commonwealth submitted with the application for delinquency complaints provided that Ms. Prince's body was found in her home on January 14; Dr. Andrew Sexton subsequently determined the cause of death was asphyxia due to hanging and the manner of death was suicide. The statement alleged that Prince's mother said her daughter was "getting bullied" by other students, including the juvenile Flannery Mullins, at South Hadley High School.

When Prince started dating Austin Renaud, a boy whom Flannery Mullins also dated, Mullins allegedly began to harass and bully Prince. Witnesses interviewed by the Commonwealth have provided information concerning a pattern of assaultive conduct directed towards Phoebe Prince by Flannery

Mullins, who often publicly voiced her dislike for Prince and Renaud's relationship. Many witnesses explained to the police that they overheard Flannery direct explicit language towards Prince, such as "whore" "slut" and "Irish slut." The comments also included harmful bodily threats.

One witness stated that Prince told her she went to school officials saying she "was scared and wanted to go home" and that when she returned to class she told the witness "she was still going to get beat up". Before physical education class about a week before Prince's death, one witness heard Mullins say that "freshman Phoebe girl was trying to get my boyfriend" and she "should get her ass kicked."

Another incident involved Mullins following Prince into the school bathroom and standing by the sink "like she was waiting for Phoebe." When Prince left the bathroom, Mullins was right behind her, and later, that witness saw Prince crying and a male student was comforting her. Investigators also learned through witness statements that Mullins used electronic media, specifically Facebook, and authored several postings in the weeks preceding Prince's death. One witness reported seeing a posting that said: "I used to like Irish girls and now I know some of them are slutty."

The following information is known about the juvenile:

Flannery, who is fifteen, lives with her mother, her ten- year old stepsister, Fiona, and her stepfather Peter Perkins. Flannery's father, Mike Mullins, and her mother Maria have been divorced for two years. Mr. Mullins has also remarried. His current wife, Susan Mullins, was a good friend of Maria's – they worked

together as nurses at a local hospital. (Flannery has been known to say that her father's wife "is a slut just like Phoebe".) Maria has continued to work there; Susan no longer works and has a two-year-old child, Nathan, who was conceived before Peter and Maria's divorce was final. Mr. Mullins is a CPA; Peter Perkins is an anesthetist. Both work long hours and are frequently not present for dinner or school functions. Flannery is a good student, and she has maintained a solid B average for the last two years. Her stepsister Fiona is also a good student. Even though Maria works everyday, she manages to get home when the girls arrive after school, helps with their homework, cooks dinner, and takes them to dance lessons and after school activities.

- A.) *You represent the Juvenile in the above case and you filed a motion to dismiss the Youthful Offender indictments and go forward on just the delinquency complaints. What is your argument?*
- B.) *You are the Juvenile Court Trial Judge (assume the motion above was denied) and the trial just concluded. How will you decide at the sentencing hearing?*

QUESTION 2

After a trial with intermittent hearings over a period of two years on a care and protection petition filed by the Department of Children and Families, the Juvenile Court must decide whether to adjudicate the biological mother (Kara Linley) and father (Theo Linley) unfit to parent their children Nate and David and/or terminate their parental rights.

This case began when the department filed a care and protection petition alleging that the mother and father were neglecting their sons Nate (7 years old) and David (6 years old). Both children were born testing positive for opiates and methadone. (Nate had been initially removed but returned to parents at eight months old and David stayed in the hospital for nearly three months after birth).

A third child, Anna, was born (4 years old) testing positive for methadone but not for illegal drugs. Although the department filed a care and protection proceeding for her and she was placed in the department's temporary custody because the mother had given a false address, she was returned to the mother three months later and has remained with her parents since that date. Anna was born with Down syndrome, congenital heart failure, an enlarged liver, and with other ailments. The department has no concerns about Anna despite her extensive medical needs and the service plan indicated that the parents demonstrated a level of parenting skill adequate to care for Anna.

According to the department, the goal for the two boys was changed to adoption because neither parent had provided ongoing verification of sobriety

and had not obtained appropriate housing or stable employment. The children were then placed in separate preadoptive homes, after three different foster home placements. Until the goal was changed, the parents first had weekly two-hour visits, and then twice monthly visits for two hours. Once the goal changed, visits were reduced to one-hour monthly visits. For a period of time there were no visits as the Department and the children's attorneys stated the boys were emotionally harmed by the visits. The parents had attended the visits regularly and Anna had been present at the visits since her birth.

Kara Linley has a drug and criminal history. (Possession of class A controlled substance, possession of hypodermic needles, operating after a suspended license, attaching the wrong license plates to a vehicle, and larceny.) She has completed probation for all of these charges and has not incurred any new arrests for nearly two years. Theo Linley has a similar history (possession of a class A controlled substance, larceny, and juvenile charges of larceny of a motor vehicle and carrying a dangerous weapon) and also has not been arrested for nearly two years. The methadone clinic provided documentation confirming more than two years of sobriety of both parents. The parents have been living in a two-bedroom apartment with the youngest child for the last year and a half. Theo is working at a local stone quarry, and Kara is working part time some evenings and weekends at Starbucks.

The social worker testified that the parents met most of the tasks set out for them in the service plan including obtaining housing and employment, having Anna attend nursery school, providing for Anna's medical needs, and meeting

with the collaterals. They failed, however to finish parenting classes and did not do regular urine screens.

The older child, Nate, has had various placements before his current preadoptive home where he has clearly bonded. He is taking medicine for attention deficit hyperactivity disorder. For a period of about six months the Department had suspended visitation for both boys, which was reinstated after the parents' abuse of discretion motion. David is a more needy child. David has mild persistent asthma and is severely vision impaired. He was diagnosed with pervasive developmental delays, both academic and social, and has been receiving occupational therapy, modified gym classes, and at one point was receiving speech therapy. Like his brother he went through three foster placements before being placed with his preadoptive family where he also has clearly bonded.

Both preadoptive parents as well as the department, recognizing the strong ties the boys have with the biological parents, are in favor of post adoption visitation and sibling visits. There was no expert or other evidence of future harm to the boys if removed from their preadoptive homes.

The court investigator reported that a Department of Public Health social worker thought that if the parents were given custody of her sons, they would need to get support in the form of day care and summer programming. The reporter also stated that the program manager at Anna's nursery stated that mother "could probably handle three kids" if they were going to school. The reporter stated "In the present case, the variety of special needs, presented in

particular by [Anna], but also [David] and [Nate] may make it difficult to adequately care for all three children. [Anna's] special needs make her an extremely demanding child, a child likely to take up so much of the parents' time, energy, and resources that little is left to spend on other children. Given the history of parenting issues, mother and father may not be prepared to handle two more children in addition to the demanding child they are dealing with presently.”

A.) You represent the mother and the trial is over. She is asking you for your legal opinion on how you think the judge will rule.

B.) You represent the Department. State your argument for permanent custody and termination of parental rights.

QUESTION THREE

In the incident in question, Anya, an eighth grade student at a local junior high school, wore a t-shirt to school that said "the cool girls may be lesbians, but the successful girls are straight". Underneath was a cartoon picture of two girls, one behind bars with an "L" on her shirt and another in an expensive sport car with her hair flying in the wind.

Anya believes she has the right to wear this shirt because another student was ultimately allowed to wear a shirt that said, "All the cool girls are lesbian".

The other student had been sitting in the lunchroom when she was approached and reprimanded by a school official. She had to cover up the phrase on her shirt for the rest of the day, and was told never to wear it again because it was "political" and "offensive to some people".

In response, the student sent a letter to the high school principal and the city's mayor that said:

"The word lesbian is not inappropriate. Saying it is, is calling homosexuality inappropriate. The word lesbian does not mean sex, just as heterosexual or straight does not mean sex. It states that you are interested in a specific gender. This is discrimination. This is not simply about me being told to not wear a shirt again. This is about homosexuality being deemed inappropriate."

Because that girl was successful in getting her message across, Anya decided to further test what she had learned about student rights, the first amendment and Massachusetts law. She wore the t-shirt to an after school gay-

straight student alliance meeting and the faculty advisor reported her to the Principal, who suspended her for three days and also filed a CHINS petition in Juvenile Court for disobeying school rules. He says that besides this incident, Anya has been in trouble before – she had a fistfight with another girl over a boyfriend issue, and had been late to school a number of times, and sometimes skipped her gym class. She is otherwise a good student.

A.) You have been appointed to represent Anya in the CHINS case. Advise her as to all of her rights and liabilities, in the CHINS case as well as all of the school issues.

B.) What is the school's argument?

*MASSACHUSETTS SCHOOL OF LAW
PROFESSOR KALDIS
JUVENILE LAW REVIEW, SPRING 2011*

1. Origins, philosophy and goals of the Juvenile Court.
(discuss conflicting goals, such as in Youthful offender proceedings and termination of parental rights in C&P cases).
2. Are juvenile cases criminal or civil? (compare C&P, CHINS, Delinquency, Youthful Offenders with adult proceedings.)
3. Rights of the family to be free from government intrusion.
4. The state's duty to protect.
5. What do we mean by children's rights?
(is it 3 or 4 above, or can children voice their own).
6. Reporting child abuse/neglect.
7. Duties of DCF.
8. The C&P case and the standards of proof in the emergency, 72-hour, and final hearing.
9. Current parental fitness.
10. Best interest of the child.
11. Standards for visitation.
12. Recognizing abuse and neglect. (for example, physical, emotional, sexual, medical, domestic violence.)
13. Termination of parental rights.
14. The rights of parents and children in C&P cases (statutory and constitutional).
15. Distinguishing a CHINS case from C&P, and from Delinquency.
16. Students rights. (Freedom of expression, school violence, search & seizure)
17. Procedures in delinquency cases. (Arraignment, jury trial, arrest, bail, pre-trial detention, plea arrangements, duties of the probation department, standard of proof.)
18. Comparison of juvenile and adult rights in delinquency and youthful offender cases.
19. Youthful offender statute. Is it a violation of juvenile rights or a legitimate attempt on the part of the state to address serious juvenile crime?
20. Role of counsel in juvenile cases and possible ethical problems.

**MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM, SPRING 2010
PROFESSOR KALDIS**



You have three hours to complete this exam. Write your exam number on every examination book you use. All exams should be written in ink, using only one side of a page. You may also skip every line if your handwriting is large or hard to read, or if you wish to go back and insert additional language. Thank you all for your interest and participation this semester, and have a good summer.

1.) After twelve hours of deliberations, spread over three days, a Middlesex Superior Court jury found 19-year-old John Odgren guilty of first degree murder for killing a schoolmate at Lincoln-Sudbury High School in 2007. The teen slumped down into his courtroom chair after the verdict was read Thursday afternoon.

Odgren, who was 16 at the time of the murder, stabbed and slashed freshman James Alenson to death inside a school bathroom. Whether or not Odgren was the killer was not at issue in the trial. The defense conceded to what happened. Instead, jurors had to decide whether the teen was criminally responsible for his actions on January 19, 2007.

There was no argument, no fight, and no bad blood between the two students. But John Odgren pulled out a 13-inch knife and stabbed the 15-year-old in the stomach and heart, and slashed his neck. Odgren, who was diagnosed with depression, attention deficit hyperactivity disorder, and Asperger's Syndrome, lived a paranoid and fearful existence after years of bullying and teasing. Odgren stabbed James Alenson to death in a frenzy fueled by his belief that something terrible was going to happen to him.

According to prosecutors, Odgren went to school on January 19, 2007 "looking for someone to kill".

- Describe the process by which the District Attorney prosecuted the 16- year old.
- Why was he not tried in the Juvenile Court?
- Should he have been tried in the Juvenile Court? Explain why or why not.
- If Odgren were 13 years old how would his prosecution be different?

2.) Irene was fourteen years old when she gave birth to Liam. Today Liam is sixteen. In the interim she had six other children - Lara, fifteen, Nick, fourteen, Jake, twelve, Caleb, ten, Bobby, seven, and Mary, five. Irene married Hank Morrill before Lara's birth. Irene and Hank have lived together on and off during these years. Hank is named as the father on the children's birth certificates; Liam claims Hank is not his father. When Hank was with the family, he either ignored Liam or cussed at and beat him.

From the time Liam learned to walk, he started taking care of his younger brothers and sisters. Though Irene only occasionally worked odd jobs out of the home, she was frequently out in the evenings, and, when she was home, she was busy cooking and baking as she ran an "after-hours" club in the house. She taught Liam how to cook, and, when he wasn't busy helping her prepare for their guests, he was cooking for the family. When the children became school age, Liam got them ready in the mornings, making breakfast and ironing clothes.

Although Liam's dream was to be a scientist, he now is not sure if he is going to college. His grades are not that good, partly because of his family responsibilities, and also because he plays for and manages the Morrill Family Band. All of the children except Bobby and Mary perform in the band, although Liam frequently brings them on the gigs. The money from the gigs pretty much supports the family now, as Mr. Morrill left a year ago.

About a year ago, the band was performing at a local nightclub. Bobby and Mary stayed home with "Uncle" John, who had been staying at the house at that time. (Liam claims this man is his real father, while Hank is the father of all the other children.) Irene went with the other children to the nightclub, so she could gather business for her after-hours club. The following day, Mary told Irene "Uncle Johnny and Bobby took a bath together". Irene ignored Mary's comment at the time, but a week after that, after John and Bobby refused to take Mary to the movies with them, Irene became suspicious. She did not say anything, but instead watched the two of them closely for a few weeks. When she saw John and Bobby on the couch early one Saturday morning watching cartoons, she felt uneasy. Bobby had neither revealed anything to her, nor did he report anything when she questioned him about the relationship with John. She decided she would find an excuse to have John leave, so one evening she "picked" a fight with him, and he hit her. The police came, and Irene obtained a restraining order barring John from the house. Two weeks after that, he got a job tending bar for a local club; he also plays guitar with a band that sometimes travels out of the area.

A month ago, a man called Peter Harrison, a powerful man in the community who owns several restaurants, a nightclub, and a chain of variety and department stores, approached Liam. It is rumored that some of these businesses are "fronts" for illegal operations such as gaming, selling stolen goods, prostitution and drugs. The lure of swift, easy money caught Liam, and, since the porch needed repair, and the band needed new equipment, he agreed. Unfortunately, he was caught. He had a large quantity of cocaine in his music bags in the nightclub. His job was to leave the bags in

the dressing room, and the drugs would be gone by the end of the night. Before he finished playing, however, the place was raided, and the stuff was found. Liam refuses to implicate Harrison or anyone else for fear of reprisal to his family. His case is now pending in the Juvenile Court, and the high school principal has suspended him.

The family is currently under investigation by the Department of Children and Families, as the police department made a report shortly after Liam's arrest. Irene had stopped going out in the evenings to clubs and stopped running her after-hours club about six months ago, because she became a Jehovah Witness. The older children, however, gave her a hard time, refusing to worship with her, and continuing to play in the band though she claimed they were doing the "devil's work". Because they work late hours, the children frequently miss school. Irene has been arguing with Lara over her going out with boys and dating out all night and doing drugs. Jake has been diagnosed with a chemical imbalance but Irene refuses to have him take the prescribed medicine because it is against her religion. Bobby began wetting his bed and having nightmares the last three months, and Irene is now convinced that John molested him.

- Advise Liam as to his rights and liabilities, as to the Juvenile case and as to his school suspension.
- Advise Irene as to her rights and liabilities concerning the DCF investigation, including discussion of all the possible Juvenile Court cases involving her children.

3.) You are a Juvenile Court judge and have just presided over the Care & Protection matter filed by DCF regarding Irene's children.

After you heard the evidence above, (see question 2 for the facts) you asked the parties to return the next day for your decision on the 72-hour hearing. Draft your decision, focusing on all the legal issues raised by this case as well as the legal standards governing temporary custody hearings, and the authority of the Juvenile Court to make appropriate and equitable decisions for the children within its jurisdiction.

MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM, SPRING 2008
PROFESSOR KALDIS

You have three hours to complete this exam. Note that the fact pattern builds chronologically from question 1 through 3, so please read and prepare your answers accordingly. Write your social security number on every examination book you use. All exams should be written in ink, using only one side of a page. You may also skip every line if your handwriting is large or hard to read, or if you wish to go back and insert additional language. Thank you all for your interest and participation this semester!

1.) Alana King is fifteen years old and a student at Whispering Elms High School. She lives in a comfortable, eight room house with her mother, Tabitha, her father, Stephen, her twin brother Alan, and her paternal grandmother, Matilda.

The family moved to Whispering Elms last year from Maine – Mrs. King teaches at the University of Massachusetts, Lowell campus, and Mr. King is currently caring for his aging mother, Matilda, who owns the home the Kings have moved into – Matilda is 88 years old and suffering from Alzheimer's, but rather than hospitalize her the Kings decided to move into Stephen's ancestral home.

Clara Parker, the school principal, recently called the Kings about Alana's behavior. According to Ms. Parker, Alana has been engaging in aggressive behavior towards other students in her class. Alana apparently has been spoken to almost on a daily basis in the three months since she has enrolled in the school. Her outbursts in her various classes seem to revolve around issues of power and control – whenever Alana is challenged in the least, even intellectually, she cannot control herself, she hurls epithets at anyone she believes has “hurt” her, claiming that “no one is going to get away with hurting me or my family – my Grammy taught me this”, meaning her paternal grandmother, Matilda.

The incident that precipitated calling Alana's parents occurred in Sociology class. Alana's Sociology teacher, Peter Stone, had thrown her out of class because Alana allegedly assaulted and battered another student with her designer spike heels. This incident occurred during a class exercise; Stone had instructed the students to engage in a role playing exercise designed to teach the dynamics of domestic violence in family structure. As Alana was acting as the batterer in a spousal relationship, she suddenly kicked her “spouse”, Tommy Knocker, because he had not “properly prepared the crème brule”. Alana received the usual after-school detention as punishment.

When Tommy's father called the school next day, however, Ms. Parker decided something more than the detention would be appropriate, especially because Tommy's parents decided to keep Tommy at home for a few days as he was hurt, physically and emotionally, by Alana.

Ms. Parker then called Alana's home to schedule an after school conference. Alana's father, Stephen King, answered and Parker asked to see him the next day to discuss ways for Alana to avoid using violence, in her language and her actions. Ms. Parker arranged for a meeting with Mr. and Mrs. King while Alana was in detention. The next day, Stephen King did not show up for the meeting, because he was unable to arrange for a visiting nurse to sit with his mother, but Tabitha King showed up, and reported coldly that Alana "did nothing wrong – she was merely playing a part, as instructed in class"; she also felt Alana should not have received a detention. When questioned about her daughter's prior episodes of disrupting classes, Mrs. King responded that her daughter was always the "strong twin – she takes after me", then Mrs. King left without waiting for the meeting with Alana, as she said she had to go teach a class.

Just as she was about to leave her office, Ms. Parker was interrupted by Mr. King's late arrival. He stated breathlessly that the visiting nurse showed up, so he came as quickly as he could. He appeared surprised that his wife had been there – he thought she was busy teaching all day. During the course of the conversation with Ms. Parker, Mr. King revealed that he was concerned that Alana had been going through some personality changes since the move to Massachusetts. The previous day he had seen Alana looking in the bathroom mirror talking to someone she called "Mimi" - he asked her who Mimi was, and she said it was her doll, the rag doll that was originally given to her when she was three by her grandmother. She said "relax, DAD, I am not losing it like your mother" and walked away.

Ms. Parker and Mr. King also discussed the last incident that occurred in Sociology class. Parker's concern was that Alana, a good but unruly student, had been a disruption in school, and if she needed psychological help now would be the time before she got into any further trouble. When asked if the Kings would engage Alana in therapy, Mr. King reported that his wife would never agree. Parker told King she had sent Alana to the school counselor, Phil Masterfield, who reported that, due to confidentiality, he could not relate to anyone what Alana had said, but he could say that he was concerned that Alana was resorting to violence as a way of dealing with a multitude of personal issues.

What actions, if any, are likely to be taken against Alana, and by whom?

What defenses, if any, are available to Alana?

What would be your representation strategy if you were Alana's lawyer?

2.) It is three months later than the facts that took place in question 1. You represent Stephen King in a Care & Protection matter filed in the Lowell Juvenile Court.

The allegation is that Tabitha King has engaged in assaultive behavior towards their son, Alan King, and that Stephen has not done anything to protect Alan from the abuse.

Stephen states that a few months ago Tabitha hit Alan on the leg with a golf club and he had a hideous bruise that lasted for weeks. When Stephen asked whether they should take him to see a doctor, Tabitha said he was fine. When a teacher at school noticed the injury, however, it became the precipitating incident to the filing of the care & protection case. Stephen told you the reason Tabitha hit Alan was because he was playing golf instead of reading like his sister. To Stephen, this incident was not anything new or out of the ordinary – Tabitha had treated Alan cruelly all of his life. Most of these incidents occurred in the presence of both Stephen and Alana. They had subsided (at least the physically violent episodes) when the Kings came to live with Matilda. According to Stephen, Tabitha was always “on her best behavior” when his mother was around. Sadly, Matilda is now in a convalescent home recovering from pneumonia she caught due to being lost in a rain storm for six hours. (The Kings live on a secluded lake, and, apparently Matilda had gotten out after dinner one night, and came back at three in the morning, soaked and confused, and extremely sick).

Although Tabitha had a history of hurting Alan she never abused Alana, Stephen says. But he is concerned that, because Alana witnessed a lot of this when she was younger, she is now very aggressive as a result. He is concerned that his wife's volatile personality will rub off on her daughter, if that has not already happened. He also states that he wishes his wife would get help.

Other than the violent episode of the last month, there is no outside evidence of domestic abuse on the part of Tabitha, either toward Alan or Stephen. In other words, there have been no police reports, no restraining orders, either here or in Maine. All the incidents occurred behind closed doors and only the King family knew about Tabitha's temper.

No one in the family had received counseling before, except that Alana had been tested as a result of the school episodes in question 1, and the report stated that “Anger, worry and depression' were common emotions as well as physical violence, physical injury and abandonment.”

As Stephen's lawyer, you need to prepare for the seventy-two hour hearing. Describe your strategy for this hearing, and also advise him as to his legal rights. Predict also what you think the court will do and why, and what may or may not happen in the future of this case.

- 3.) Assume that the Care & Protection case described in question 2 was dismissed at the 72 hour stage. For this question, assume that the Kings' have hired you as private counsel for their son, Alan. The District Attorney's office has received some disturbing information. There is evidence that Alan was responsible for his grandmother's excursion that is now threatening to end her life. Although it has been over a month since Matilda's hospitalization, she has not recovered.

During your private interview with Alan, he tells you that he had been extremely angry at his grandmother because she had been doing "bad magic" ever since the Kings came to live with her. He noticed first that Alana, always hot tempered, even cruel, seemed to be on fire with hatred and jealousy. He wasn't surprised about the incident at school. His mother, who had always been abusive to him, but never in a dangerous way, seemed intent on killing him. But after that night when he and Matilda went over to the lake, he now felt different. He feels completely remorseful, but states he needs to tell you a "secret." He is breaking a trust, he tells you, because someone objective needs to know the truth if his grandmother dies.

First, Alan says he did not tell the police the entire truth. He states that he does not mind this prosecution as he thinks the worst that can happen to him is some time in DYS, a fair price to pay for the safety of the family. Before you were hired, Alan and his mother talked to the police for about three hours at the station after he was advised of his Miranda rights. Afterwards Alan signed a statement telling the police what he said was the truth - that after dinner, after making sure all family members were in their rooms, he went to Matilda's room. Alan then asked Matilda if she would take a walk with him to the lake. Matilda was thrilled, as Stephen did not like her to go out at night alone. When they got to the lake it had started to thunderstorm just as the weather man predicted, and Stephen told Matilda to stay low, he would run back and get the car.

Instead of going back for Matilda, however, Alan went to bed, because his mother saw him coming in, and, thinking he had gone out with friends without permission, she screamed at him to go to bed immediately and the matter would be discussed in the morning. Even though Matilda was so disoriented that she would not be able to find her way back, Stephen told the police he purposely left her there.

When asked why he did this, he lied, saying that he was so afraid of his mother's anger that he couldn't say where he had been and could not attempt to go back out again before he was sure his parents were sleeping. He tells you that the reason he brought his grandmother out there and left her was because she asked him to - Matilda was doing magic, good magic, meant to end the family violence, to "cleanse" the anger that resided in Tabitha and Alana. Although she had done some small spells that seemed to be working, Matilda was sure this rainstorm spell would erase all the "bad" that was in Alana and her mother. All she required from Alan was to walk

with her to the lake and stay there with her for the first part of the ritual, as he was needed to carry some things of Alana's and Tabitha's in order for Matilda to create the proper connection. When they got to the spot where Matilda wanted to do the ritual, she told Alan he had to go back home, as all 4 members of the family had to be sleeping in their beds in order for the spell to work. Alan reluctantly but obediently went home where he encountered his mother. Matilda had instructed him to go to bed directly and not say a word, no matter how bad the storm got. His mother's screaming did not really scare him, he tells you.

When his grandmother arrived soaked, dazed, and confused, Stephen and Tabitha drove her to the hospital. Matilda, although suffering from a strain of pneumonia that seems to be resistant to antibiotics, and, according to her doctor, is in full blown Alzheimer's, has managed to whisper to Alan that her spell worked, that over a period of time there would be peace within the family, but made him vow not to tell. You have looked at Matilda's medical records and all appears as the doctors say – she is very, very ill, and she also has Alzheimer's. If Alan is right then the medical profession is wrong.

Alan wants you to advise him as to all of his rights relative to this prosecution. He wants to know what the Assistant District Attorney wants, and if there is a possibility of something more serious happening to him. He asks you if there is a possibility he can “get off”, and wants to know what your pretrial and trial strategy will be. He also wants your advice on if he should take a plea or not. Finally, he tells you that he thinks he needs “help”.

**MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM, SPRING 2003
PROFESSOR DICKINSON**

You have three hours to complete this exam. Please write your social security number on every examination book you use. All exams should be written in ink, using only one side of a page. This exam is open-book; therefore you are expected to use specific authority in your answers.

On January 24, 2002, a 51A report was filed with DSS alleging that on the previous day the reporter had witnessed the mother repeatedly slapping the child in the face. The reporter also stated that both she and her husband had witnessed previous incidents of mother slapping and hitting the child, and the mother had told reporter she hated the child. Further, the child was reported as having bruises and a cut under her eye. On January 25, DSS workers Thomas Zarino and Pat Casey proceeded to 111 Adams Street, the home of Elizabeth Farley and her children. Dennis Tazier, the father of Tiffany and Dennis Jr., was incarcerated at MCI Concord, Concord, Massachusetts. The workers observed Tiffany to have multiple bruises on her body, including her left and right arm, legs, shoulders and back. Tiffany also had cuts under and above both eyes, and bruising. The child was observed to have abnormal gait of the left leg and a cut on the top of her head. Tiffany also appeared very malnourished to the investigators.

Tiffany was taken to Saints Memorial Hospital Emergency Room at 11:30 A.M., accompanied by the mother and her two siblings, Dennis, D.O.B. August 2, 2001, and Nicole, D.O.B. June 15, 1996. Tiffany was examined by Dr. D'Angelis, who determined that the child had multiple injuries as a result of physical abuse, and she was hospitalized for 3 days. Ms. Farley denied abusing the child, but there was no other known caretaker. A Care and Protection Petition was filed and temporary custody was granted to DSS on January 25, 2002.

The mother of Tiffany, Elizabeth (Betty) Farley, was born on June 1, 1980. Her parents are Isabel and Harry Farley. Mr. Farley was an alcoholic who kept getting fired from jobs due to his drinking. Betty became pregnant at sixteen and dropped out of school. Betty lived with her parents until four months after the birth of Tiffany, her second child, when she moved into an apartment with Dennis Tazer, the father of Tiffany and Dennis Jr. After Betty became pregnant with Dennis Jr., Dennis Sr. was sentenced to MCI Concord for the rape of his step-daughter from his first marriage.

When Tiffany was born, she was 3 months premature and weighed 3 pounds, 8 ounces, and was hospitalized for 54 days following her birth. Betty visited her 2 to 3 times a week, taking public transportation back and forth to the hospital. Betty has stated that Tiffany was a very difficult baby who seldom, if ever, slept through the night following her release from the hospital. She also stated that Tiffany was not a very social child and preferred being alone. She sat up at 11 months, walked at 18 months, and used single words at 18 months.

There were no health problems with Nicole or Dennis, Jr. Furthermore, Betty interacted appropriately with both of them during visits by DSS, although Dennis cried for 2 to 3 minutes after a nap before Betty got up to feed him. When she was feeding him, there was no emotional interaction between mother and child. Betty was evaluated by Paul Rizzo, a clinical psychologist. His report indicated that Betty had a low/average range intellectually with a full scale IQ of 83. She performed better on tasks that were highly structured, non-verbal and non-anxiety producing. She had low self-esteem, was passive, lacked confidence, and was experiencing a moderately intense, agitated depression, perhaps due to her relationships with her violent father and husband. In identifying with significant others, Betty, rather than expressing empathy, related to them in a child-like primitive and regressive manner. Dr. Rizzo recommended intensive psychological therapeutic intervention.

Tiffany has been in the same foster home since her initial placement. Her foster mother, Kathy Baker, reports that when she first came, she would just sit in one spot, not walking or crawling around. She now runs around, playing with Kathy's daughter. She has gained weight, and seems to be progressing well, although she still bangs her head, a behavior she has exhibited since age 6 months. During one of the worker's visits, the foster mother was pretending to cry, and Tiffany went over and hit her. Tiffany repeated this behavior shortly thereafter. The foster mother stated that Tiffany never cries, even when she falls down and hurts herself. Following one of the visits between Tiffany and her mother, Nicole was reported as saying "Look Mommy, she's walking around, now you won't be able to hit her anymore." There is little physical contact during these visits between mother and child – Tiffany always seems hesitant to approach Betty and there is little or no hugging or kissing at the end of the visits.

Since the filing of the petition, Betty and her two children Dennis Jr. and Nicole have moved back with Betty's parents. The home is cluttered and in need of repair. Her father died one month ago, and Betty has decided to divorce Dennis. He has been working at a nursing home full-time while her mother baby-sits Dennis Jr. Dennis is in school and has begun attending individual psychotherapy using play therapy to address the issues of physical abuse that she has witnessed. Betty has been attending therapy, although sporadically, and also has begun parenting classes. Betty's plan, should she get Tiffany back, is to keep her in the same preschool program she is currently attending, and next year she would attend the same school as Nicole.

1.) It is June 24, 2003. You are law clerk to the Honorable Paula Kaldis Dickinson, the Juvenile Court Judge who has just heard the case of Child Protection of Tiffany Tazier, D.O.B. July 22, 1999. Advise the judge as to how she should rule and why, using applicable law to support your position.

2.) It is June 30, 2010. Nicole Farley is now fifteen years of age. Her mother gained custody of Tiffany after a long appeal process, and, in the interim, Nicole never finished therapy for witnessing the abuse of her little sister. Nicole is extremely aggressive, and would not follow rules

at home or at school. The school had filed a CHN on her when she was eleven for disobeying rules and a year ago for truancy. Last week Nicole followed another student home and allegedly threatened to kill her. Angela Davis, a student in her class, claimed that Nicole became enraged at her when Nicole's boyfriend, Nick Paris, broke up with Nicole to go out with Angela. Nicole told students in her class that Angela would not be in school the next day. When questioned, she merely said "Angela is going to be indisposed." Angela claims that Nicole was banging on her front door with a large object, so large and sharp that the door was heavily damaged. Nicole claims it was merely her foot, and she was just trying to get Angela to open the door so she could talk to her.

a.) What actions, if any, should the school take against Nicole?

b.) What actions, if any should the Commonwealth take against Nicole?

3.) Make an argument on behalf of this student:

(Consider the rights, duties and liabilities of the parties and what forms of relief are available).

Bretton Barber is a seventeen year old junior at Dearborn High School. On February 17, 2003, Barber wore a T-shirt to school, the front of which displayed a photograph of George W. Bush with the caption, "International Terrorist." Barber wore the shirt during his morning classes, from 7:30 a.m. until 10:30 a.m., and during part of his lunch period between 10:30 a.m. and 11:00 a.m. During lunch period, Vice-Principal Michael Shelton approached Barber and told him to turn the shirt inside-out. Barber asked Shelton why, and Shelton said that the T-shirt promoted terrorism. When Barber asked him to explain how the shirt promoted terrorism, Shelton stated that he did not have to explain. Shelton told Barber that he had to turn the shirt inside out or go home. Barber refused to turn the shirt inside-out, and went home. Later, Barber telephoned defendant Judith Coebly, the Principal of Dearborn High School, to discuss the matter. Coebly told Barber he could not attend Dearborn High School wearing the T-shirt.

In order not to jeopardize or interrupt his high school education, Barber has not worn the T-shirt to school since February 17, 2003. However, Barber wishes to wear the T-shirt to school to express his views, and he would do so if permitted by the school administration. Barber's T-shirt has become something of cause celebre at Dearborn High School. Many students and faculty members have made comments to plaintiff regarding the T-shirt incident, the majority of which have been supportive of his right to wear the shirt. Teachers have conducted class-room discussions about Barber's shirt and the school's reaction to it.

MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM, SPRING 2004
PROFESSOR DICKINSON

You have three hours to complete this exam. Please write your social security number on every examination book you use. All exams should be written in ink, using only one side of a page. This exam is open-book; therefore you are expected to use specific authority in your answers.

1.) Your name is Maria Tailor. You are clerk to the newest judge in the Lowell Juvenile Court, the Honorable Eugenia Balos. Judge Balos has just heard her first juvenile case - the case of Marco Tebaldi, a CHINS matter. The judge has asked you for your opinion as to how she should rule and why. Please support your position with specific authority, both statutory and case law. Assume she heard the following facts:

Marco Tebaldi is thirteen years old and a student at Bartlett Junior High School. He moved to Lowell last year from Puerto Rico with his mother, Tina Torres, age twenty-nine, and grandmother, Helen Torres, age fifty-nine, after his grandfather passed away. Marco had lived in Puerto Rico with his mother and maternal grandparents for the last four years. He had moved there with his mother after his father, Charles Parker, age thirty-eight, left them. Marco's parents never married, but Marco, Tina and Charles lived together in Lowell as a family, until Charles left. Shortly after that, Marco and Tina went to Puerto Rico with Marco's grandparents.

In Puerto Rico, Marco and his mother resided with his maternal grandparents, Kamil and Helen Torres, who were very strict, very traditional, and very religious. During the time he lived there, his maternal grandparents were the disciplinarians, rather than his mother, who was recovering from substance abuse. During the time she had lived with Charles, Tina drank quite heavily and became addicted to a prescription drug given her for depression. When Charles left her, Tina's parents took over. They made arrangements for Tina and Marco to come and live with them, and they also took care of Tina's therapy.

Charles made a few sporadic attempts at contact with Marco and Tina, but, for the most part, did not communicate until they came back from Puerto Rico. Charles currently lives and works in Andover, Massachusetts. He has his own CPA practice and owns an eleven room home where he lives with his current fiancé, Samantha Madison, a teacher at Phillips Academy, and her fourteen year old daughter Deanne. Since coming back from Puerto Rico, Marco has visited at his father's home, and frequently stays overnight.

The school principal and supervisor of attendance, Tina Botros, filed the CHINS petition alleging that Marco had persistently violated school rules by engaging in aggressive behavior towards other students in his class. Marco's English teacher, Peter Marshall, had thrown him out of class because Marco allegedly assaulted and battered another student with his English book. This incident occurred during a class exercise; Marshall had instructed the students to write a short essay about their cultural heritage as they were discussing the many different kinds of Americans. Marco had thrown his book which struck Alan Riordan in the eye, allegedly after Riordan had looked over at Marco, and whispered that Marco should be excused from the exercise because he was not American. Marco received an after-school detention as punishment.

After he stayed for detention, Marco allegedly attacked a boy after school, by riding his bicycle into him. Demian Aronis, the boy he ran over, reported to school the next day with his mother. Demian had cuts and abrasions all over his right leg, and was unable to play soccer that day – he was the best player on the school team. Marco admitted that he had run Demian down, but said that he was jealous because no one made fun of Demian, even though he was a “grease-ball who speaks broken English”. Marco was consequently given in-school suspension for a week as punishment.

The week he did the suspension, Marco did not fully complete the assignment that the suspension teacher, Donna Wilson, had assigned. Marco and two other students who were on suspension for fighting each other, were required to spend each day of their in-school suspension in the computer lab. The students were required to do research on school violence for the first four days of their suspension, and then write an essay on the last day of their suspension. Marco, however, did not write an essay at all. He scribbled at his desk, he looked out the window, and he finally turned in a list, rather than an essay, describing what teachers and administration, not students, should do.

Ms. Wilson reported this incident to the principal, Ms. Botros, and Botros called Marco's home to schedule a conference. Marco's mother, Tina Torres, answered and Botros asked to see both her and her son the next day to discuss ways for Marco to avoid using violence. Ms. Torres asked if the meeting could be held on her lunch break from a local retail store. The next day, Marco did not show up for the meeting, because he was not in school that day. Ms. Torres was there, and reported that Marco was not feeling good and stayed home.

During the course of the conversation with Ms. Botros, Ms. Torres revealed that she was concerned that Marco was about to be involved with a gang. She frequently worked on Saturdays, and the previous Saturday she had seen Marco in the park talking to some youths who she knew to be gang members. She questioned him about this later, but he insisted he was only talking to them. They ended up getting into a quarrel, whereupon Marco blurted out that he needed to protect himself from harassment at school. When his mother questioned him about what he meant by this, he screamed “you dumb spick, that's why dad left you, because you just don't know anything!”

At that point, his grandmother, Helen Torres, who lives with them, intervened, because Ms. Torres had started to cry and scream at Marco's out-burst. The grandmother Helen then reprimanded Marco, and sent him to his room.

Ms. Botros and Ms. Torres also discussed the last incident that occurred during the suspension. Botros told Torres that Marco was supposed to write an essay. The subject was to be "Safe schools – how students and faculty can work together to ensure safety and peace". Marco wrote not an essay but a bulleted list entitled: "Tips: How to make schools safer"; this list included mostly things teachers and administration should do. When Ms. Wilson, the suspension teacher, saw the list, she asked Marco why he did not include what students should do, whereupon, Marco took the list, which he had drafted on the computer and had printed out, and hand wrote at the bottom: "students should take up arms if harassed for any reason." Botros concluded the meeting by telling Ms. Torres the school was going to file a CHINS petition.

Ms. Botros met with Marco the next day and showed Marco his paper, explaining that, besides his trying to hurt someone again, the purpose of the in-school suspension seemed to have failed. Rather than his discussing ways that students and faculty could work together, he came up with a list of requirements for faculty and administration, excluding any actions on the part of students, except for his after-thought scribbled script calling for students to respond with weapons, which really scared and concerned the principal. Marco said that he thought he had complied with the purpose of the exercise, which was to research and then report about how to make schools safe. The principal then sent him to the counselor, David Russell, who reported later, that, due to confidentiality, he could not relate to anyone what Marco had said, but he could say that he was concerned that Marco was resorting to violence as a way of dealing with a multitude of personal issues.

2.) Your name is Nick Kallio. You have been appointed to represent Tina Torres, mother of Marco, now fourteen, in a Care & Protection matter filed in the Lowell Juvenile Court. (Please assume all of the facts in question 1; also assume that Marco was adjudicated a Child in need of services and permitted to remain at home. In the meantime he attended therapy, met regularly with his school guidance counselor, and there were no further violent incidents at school).

The allegation is that Tina has neglected Marco as a result of certain religious practices she has been engaging in since her mother, Helen Torres, who had lived with her and Marco, died nine months ago. Tina, who in the past had problems with depression and substance abuse, found that meditation seemed to calm her thoughts, and began taking Buddhist meditation classes at a new center in Andover. Sometimes she would drop off Marco at his father's, and sometimes Marco would stay home alone. Tina tried to get Marco to go with her, but he was not interested.

Tina recently went on a weekend retreat in the mountains, and Marco went on a hunting trip with his father. When Marco and Charles came back, Tina was not home, but Marco convinced his father she would be home any minute, and Charles dropped off Marco at home. It was Sunday night, and Marco was alone from Sunday evening until Monday after school. (Tina says that Charles knew she was not coming home until Monday).

Marco was late to school on Monday and reported to his teacher he had not slept well because he was alone and afraid. School officials filed a 51A, which was supported. The Department of Social Services then filed the current case, which is scheduled for a seventy-two hour hearing. Marco is currently still at home with his mother, but she believes the Department is not only seeking to take custody away from her, but also is trying to get Charles custody. She says the Department is prejudiced against her because of her beliefs and practices. She adds that a social worker conducted a home visit at Charles' place and she believes that Marco may be placed with him. Charles told her he is going to go to a single-father parenting class and attend family therapy sessions as suggested by the Department.

Tina also tells you that when they lived together, Charles frequently injured her. Her parents, who are both deceased, learned about this, and that was the main reason they took her and Marco to Puerto Rico, to get away from Charles. While Tina acknowledges that she drank and took drugs, Charles also frequently drank and would then hurt her emotionally and physically. While she sustained many an injury, because she did not have friends and did not work, no one really saw her to report this, and she never sought medical attention. Once he hit her on the head so hard, she was unconscious. When she woke up, and asked whether she should see a doctor, Charles said she was fine, and she states she was actually afraid to seek medical attention. Another time he dragged her down the stairs of their home, screaming that she was stupid. Most of these incidents occurred in the presence of Marco.

Although Charles had a history of hurting her, he never abused Marco, Tina says. But she is concerned that, because Marco saw a lot of this when he was younger, he is now very aggressive as a result. She is also concerned that the services offered by the Department to Charles will not be directed at domestic violence or anger management. She is concerned that his volatile personality will rub off on her son, if that has not already happened. She also states that, just like when he used to abuse her, her biggest fear is that he will just get away with everything because he comes across as a mature businessman and she looks like a crazy little girl.

You ask to see Tina's psychiatric reports. She began therapy in Lowell shortly after Charles left her and her parents came in to help her, and continued therapy in Puerto Rico. You discover this entry from her therapist in Lowell: "Patient presented with a 'large hematoma and bruise around the left face. Black eye--bruising around left mandible. Bruise on both arms--two on left. States she was beaten by boyfriend." You know that Tina and Charles had been living together right about at that time, but it is not clear that he was the boyfriend referenced in the physician's record.

Other than this, the record reveals no evidence of domestic abuse on the part of Charles. His fiancé Samantha Madison told a court investigator that Charles was not physically abusive to her or her daughter Deanne.

Marco had been tested when he was adjudicated a CHINS, and that report states that "the child's personality testing found indications of a child that 'was angry and depressed.' 'Anger, worry and depression' were common emotions as well as physical violence, physical injury and abandonment."

As Tina's lawyer, you need to prepare for the seventy-two hour hearing. Describe your strategy for this hearing, and also advise Tina as to her legal rights. Predict for her also what you think the court will do and why, and what may or may not happen in the future of this case.

3.) Your name is Alicia Einstein and you represent Marco Tebaldi in a delinquency matter. (Assume all facts in previous two questions). He is now fifteen and has been living with his father Charles Parker, his fiancé Samantha, and her daughter Deanne. The Care & Protection case had been dismissed after Marco's mother Tina was ordained as a Buddhist nun. Tina currently lives at the temple in upstate New York and sees Marco on some weekends, holidays, and summer vacation. At the time this delinquency matter was filed, Tina was on retreat in England.

This case was prompted by an incident that occurred a few days ago at the home of Charles Parker and Samantha Madison. Samantha was hosting a cocktail party in their garden for a charity affair. She was in the kitchen getting some more wine when she heard Marco's voice screaming "You whore", and then, as she ran down the hallway, she saw her daughter Deanne falling down the stairs, screaming and crying. In the meantime one of the ladies at the party called the police before Charles had come down the stairs to calm things down. Apparently Marco and Deanne, now sixteen years of age, had been arguing and fighting regularly for about a year. Marco would engage in screaming battles with Deanne, and then would threaten her with physical force. As a result of her fall down the stairs, Deanne sustained a broken leg. Marco had kicked Deanne with his baseball cleats on, so he has been charged with delinquency by means of assault and battery with a dangerous weapon.

Because Marco's mother is not available, and he cannot be returned to his home, he is currently in DYS custody. He tells you that he has been extremely angry at Deanne; she has been having sexual relations with his father Charles since she was fourteen, and her mother Samantha has no idea. Charles told Marco not to tell anyone, because Charles would go to jail and Marco would have to go to a foster home.

Marco states that he does not mind this prosecution as the worst that can happen to him is some time in DYS, while his father would be put away for a long time. Before you were appointed, Marco and his father talked to the police for about three hours at the station after Deanne had been taken care of at the hospital. Marco was advised of Miranda rights, was advised his father could be present, and Marco willingly spoke and signed a statement telling the truth about his hurting Deanne, but lying about the reason why.

On that evening he had returned from baseball practice a bit angry because his father did not pick him up, and Samantha told him he had to go upstairs and clean up before he could come into the kitchen to eat. He went upstairs, and, while he was in his bedroom changing, heard some noise. He thought he was the only one upstairs – his father was supposed to be working late and he thought Deanne was at a friend's house. When he looked out of his bedroom, he saw his father walk by, but his father did not see him. Then he saw Deanne emerge out of her bedroom, walking towards the bathroom, and he just became enraged, he tells you. He then started pushing and kicking her, and she fell down the stairs. He admits to you that his real anger, deep down, is at his father and his mother.

Marco wants you to advise him as to all of his rights relative to this prosecution. He also wants to know what the Assistant District Attorney wants, and if there is a possibility of something more serious happening to him. He asks you if there is a possibility he can "get off", and wants to know what your pretrial and trial strategy will be. He also wants your advice on if he should take a plea or not. Finally, he tells you that he thinks he and his family needs "help".

**MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM, SPRING 2003
PROFESSOR DICKINSON**

You have three hours to complete this exam. Please write your social security number on every examination book you use. All exams should be written in ink, using only one side of a page. This exam is open-book; therefore you are expected to use specific authority in your answers.

On January 24, 2002, a 51A report was filed with DSS alleging that on the previous day the reporter had witnessed the mother repeatedly slapping the child in the face. The reporter also stated that both she and her husband had witnessed previous incidents of mother slapping and hitting the child, and the mother had told reporter she hated the child. Further, the child was reported as having bruises and a cut under her eye. On January 25, DSS workers Thomas Zarino and Pat Casey proceeded to 111 Adams Street, the home of Elizabeth Farley and her children. Dennis Tazier, the father of Tiffany and Dennis Jr., was incarcerated at MCI Concord, Concord, Massachusetts. The workers observed Tiffany to have multiple bruises on her body, including her left and right arm, legs, shoulders and back. Tiffany also had cuts under and above both eyes, and bruising. The child was observed to have abnormal gait of the left leg and a cut on the top of her head. Tiffany also appeared very malnourished to the investigators.

Tiffany was taken to Saints Memorial Hospital Emergency Room at 11:30 A.M., accompanied by the mother and her two siblings, Dennis, D.O.B. August 2, 2001, and Nicole, D.O.B. June 15, 1996. Tiffany was examined by Dr. D'Angelis, who determined that the child had multiple injuries as a result of physical abuse, and she was hospitalized for 3 days. Ms. Farley denied abusing the child, but there was no other known caretaker. A Care and Protection Petition was filed and temporary custody was granted to DSS on January 25, 2002.

The mother of Tiffany, Elizabeth (Betty) Farley, was born on June 1, 1980. Her parents are Isabel and Harry Farley. Mr. Farley was an alcoholic who kept getting fired from jobs due to his drinking. Betty became pregnant at sixteen and dropped out of school. Betty lived with her parents until four months after the birth of Tiffany, her second child, when she moved into an apartment with Dennis Tazer, the father of Tiffany and Dennis Jr. After Betty became pregnant with Dennis Jr., Dennis Sr. was sentenced to MCI Concord for the rape of his step-daughter from his first marriage.

When Tiffany was born, she was 3 months premature and weighed 3 pounds, 8 ounces, and was hospitalized for 54 days following her birth. Betty visited her 2 to 3 times a week, taking public transportation back and forth to the hospital. Betty has stated that Tiffany was a very difficult baby who seldom, if ever, slept through the night following her release from the hospital. She also stated that Tiffany was not a very social child and preferred being alone. She sat up at 11 months, walked at 18 months, and used single words at 18 months.

There were no health problems with Nicole or Dennis, Jr. Furthermore, Betty interacted appropriately with both of them during visits by DSS, although Dennis cried for 2 to 3 minutes after a nap before Betty got up to feed him. When she was feeding him, there was no emotional interaction between mother and child. Betty was evaluated by Paul Rizzo, a clinical psychologist. His report indicated that Betty had a low/average range intellectually with a full scale IQ of 83. She performed better on tasks that were highly structured, non-verbal and non-anxiety producing. She had low self-esteem, was passive, lacked confidence, and was experiencing a moderately intense, agitated depression, perhaps due to her relationships with her violent father and husband. In identifying with significant others, Betty, rather than expressing empathy, related to them in a child-like primitive and regressive manner. Dr. Rizzo recommended intensive psychological therapeutic intervention.

Tiffany has been in the same foster home since her initial placement. Her foster mother, Kathy Baker, reports that when she first came, she would just sit in one spot, not walking or crawling around. She now runs around, playing with Kathy's daughter. She has gained weight, and seems to be progressing well, although she still bangs her head, a behavior she has exhibited since age 6 months. During one of the worker's visits, the foster mother was pretending to cry, and Tiffany went over and hit her. Tiffany repeated this behavior shortly thereafter. The foster mother stated that Tiffany never cries, even when she falls down and hurts herself. Following one of the visits between Tiffany and her mother, Nicole was reported as saying "Look Mommy, she's walking around, now you won't be able to hit her anymore." There is little physical contact during these visits between mother and child – Tiffany always seems hesitant to approach Betty and there is little or no hugging or kissing at the end of the visits.

Since the filing of the petition, Betty and her two children Dennis Jr. and Nicole have moved back with Betty's parents. The home is cluttered and in need of repair. Her father died one month ago, and Betty has decided to divorce Dennis. She has been working at a nursing home full-time while her mother baby-sits Dennis Jr. Nicole is in school and has begun attending individual psychotherapy using play therapy to address the issues of physical abuse that she has witnessed. Betty has been attending therapy, although sporadically, and also has begun parenting classes. Betty's plan, should she get Tiffany back, is to keep her in the same preschool program she is currently attending, and next year she would attend the same school as Nicole.

1.) It is June 24, 2003. You are law clerk to the Honorable Paula Kaldis Dickinson, the Juvenile Court Judge who has just heard the case of Care and Protection of Tiffany Tazier, D.O.B. July 22, 1999. Advise the judge as to how she should rule and why, using applicable law to support your position.

2.) It is June 30, 2010. Nicole Farley is now fifteen years of age. Her mother gained custody of Tiffany after a long appeal process, and, in the interim, Nicole never finished therapy for witnessing the abuse of her little sister. Nicole became very aggressive, and would not follow rules

at home or at school. The school had filed a CHINS when she was eleven for disobeying rules and a year ago for truancy. Last week Nicole followed another student home and allegedly threatened to kill her. Angela Davis, a student in her class, claimed that Nicole became enraged at her when Nicole's boyfriend, Nick Paris, broke up with Nicole to go out with Angela. Nicole told students in her class that Angela would not be in school the next day. When questioned, she merely said "Angela is going to be indisposed." Angela claims that Nicole was banging on her front door with a large object, so large and sharp that the door was heavily damaged. Nicole claims it was merely her foot, and she was just trying to get Angela to answer the door so she could talk to her.

a.) What actions, if any, should the school take against Nicole?

b.) What actions, if any should the Commonwealth take against Nicole?

3.) Make an argument on behalf of this student:

(Consider the rights, duties and liabilities of the parties and what forms of relief are available).

Bretton Barber is a seventeen year old junior at Dearborn High School. On February 17, 2003, Barber wore a T-shirt to school, the front of which displayed a photograph of George W. Bush with the caption, "International Terrorist." Barber wore the shirt during his morning classes, from 7:30 a.m. until 10:30 a.m., and during part of his lunch period between 10:30 a.m. and 11:00 a.m. During lunch period, Vice-Principal Michael Shelton approached Barber and told him to turn the shirt inside-out. Barber asked Shelton why, and Shelton said that the T-shirt promoted terrorism. When Barber asked him to explain how the shirt promoted terrorism, Shelton stated that he did not have to explain. Shelton told Barber that he had to turn the shirt inside out or go home. Barber refused to turn the shirt inside-out, and went home. Later, Barber telephoned defendant Judith Coebly, the Principal of Dearborn High School, to discuss the matter. Coebly told Barber he could not attend Dearborn High School wearing the T-shirt.

In order not to jeopardize or interrupt his high school education, Barber has not worn the T-shirt to school since February 17, 2003. However, Barber wishes to wear the T-shirt to school to express his views, and he would do so if permitted by the school administration. Barber's T-shirt has become something of cause celebre at Dearborn High School. Many students and faculty members have made comments to plaintiff regarding the T-shirt incident, the majority of which have been supportive of his right to wear the shirt. Teachers have conducted class-room discussions about Barber's shirt and the school's reaction to it.

*MASSACHUSETTS SCHOOL OF LAW
SPRING 2000
JUVENILE LAW EXAM
PROFESSOR DICKINSON*

You have three hours to complete this exam. Please write your social security number on every examination book you use. All exams should be written in ink, using only one side of a page.

This exam is open-book, therefore you are expected to use specific authority in your answers.

1.) Please read the enclosed materials. They involve a fifteen (15) year old high school student, Angela Demetri, who has been charged with delinquency complaints for assault and battery, assault and battery with a dangerous weapon (a shod foot), possession of a class D substance and possession of a class D substance with intent to distribute. The charges resulted from a get-together of young people at Angela's house after school. The home was unsupervised because Angela's parents are separated and Angela's mother (her custodial parent) worked and did not get home until late. Although Angela invited most of the young people to her house, the object of her kick, Tiffany Daley, and Tiffany's friend, Laura Marshal, were present though not invited. An argument between Tiffany and Angela occurred resulting in Angela's kicking Tiffany in the lower leg with her "sneakered" foot. Angela's claim is that she was threatened by Tiffany's approach and was merely protecting herself.

After Tiffany went home, her mother called the police, who went to Angela's house. Upon arriving at Angela's house, they found two teens smoking marijuana on the porch and they found Angela in the kitchen near the kitchen table on which was a bag with six rolled marijuana joints. Angela was subsequently charged as stated above; the school is seeking to suspend her.

A.) You are legal counsel for the school. Advise Ms. Harvey what she should decide regarding Angela and why.

B.) You represent Angela in the juvenile case. Advise her as to her rights, taking account all possible actions, outcomes and dispositions.

2.) Janice Mansfield and William Rolando are the parents of Melinda Rolando, currently eighteen months of age. Melinda had been born prematurely at twenty-five weeks of gestation, and tested positively for heroin and cocaine. A 51A was filed on December 12, 1998, by hospital personnel shortly after Melinda's birth, and supported on December 13, 1998. Because Janice had a lengthy history of drug abuse, and William a history of domestic violence, DSS obtained an order of custody that has been in place from December 14, 1998 until the present time. The case is currently scheduled for trial.

Melinda had many complications due to her prematurity and drug addiction, and was hospitalized for several months after birth. In the meantime, Janice, despite attempts at sobriety and recovery, was unsuccessful in beating her drug addiction. William, in the meantime, was served a restraining order because he gave Janice a black eye. He claimed they were fighting over her drug addiction and refusal to get help; he was concerned she would not ever get custody of Melinda. William, who is not married to Janice, was ordered to stay away from her apartment for one year, with the proviso that should he get any visitation with his child that might result in a violation of the order he could come back to court for clarification.

Melinda, at two months-old was placed in the care of Mary Rust, a foster-mother with experience caring for special needs and children with extraordinary medical needs as well. Mary had been a foster-mother for fifteen years, was married to an engineer, and had two children of her own; one has graduated college and the other is in her last year. Mary had two other children in her care at the time of Melinda's placement- Jaimie, a six-year-old who had been sexually abused by his mother's boyfriend, and Michael, a two year old who had been severely physically abused by his mother.

While Janice had been too strung out on drugs to be actively engaged with her child during the first two months of her birth, once Melinda was placed in the foster home, Janice began to make some progress. She attended a drug rehabilitation program, at first in-house, then on an outpatient basis, took parenting classes, and also underwent counseling regarding the domestic violence issues. William found a new job as a commercial painter, obtained his own housing, and started counseling to address the issues of domestic violence. Both parents at first had separate supervised visitation at DSS offices, but after a few months, the visitations started to take place at the foster home. Since Melinda turned one, the parents have had frequent unsupervised visitation in Mary's home, as they had developed a relationship with her. At about this time, William and Janice were talking about getting back together.

When Melinda was fourteen months old, an assessment was done by the early intervention specialist. Her gross motor skills were at the ten-month level. Her cognitive functioning and fine motor skills were at the eight-month level. Her expressive language was at the four-month level although receptive language was at a seven-month level. The most recent description of Melinda is that she is easily agitated and very high strung. She has a short attention span. She has not had

significant weight gains but has gained some weight. She has improved in some areas of development - she crawls and is trying to stand. for example. Although she only just recently allowed a spoon in her mouth, she will eat smooth foods like yogurt and pudding; she dislikes gritty textured foods. She currently sees a speech therapist, an occupational therapist, and a physical therapist.

Janice has been doing random drug and alcohol screens three times a week, and they have been for the most part negative. All social workers, including the foster mother report that she was always loving, attentive and affectionate toward her child. Janice still gets counseling through the local hospital, and has participated in every aspect of Melinda's care that the foster mother has asked her to do.

William, who has done well in his painting job, also works some evenings as a subcontractor for a local real estate company. His boss has also been accommodating regarding visits with his child. Because of all these obligations, he states he could not finish the program to stop violence he had been attending. His counselor had stated "Mr. Rolando greatly minimizes the frequency and severity of his abusive behavior. He does not appear to grasp how his abusive actions have adversely affected his partner."

William and Janice moved back in together about three months ago, and there have been some incidents of violent behavior on William's part, although Janice has not obtained a restraining order, and the police have not been called. Janice, has, however, mentioned an incident to the social worker- she missed one of her visitations because she was "upset" after she had a fight with William. The social worker states Janice had obvious bruises. The other thing, is that Janice's positive test results seem to be directly correlated to these incidents.

Assume you are clerking for the Juvenile Judge who has just heard the trial of this case. Advise the judge how she should rule and why.

*MASSACHUSETTS SCHOOL OF LAW
PROFESSOR KALDIS
JUVENILE LAW REVIEW, SPRING 2011*

1. Origins, philosophy and goals of the Juvenile Court.
(discuss conflicting goals, such as in Youthful offender proceedings and termination of parental rights in C&P cases).
2. Are juvenile cases criminal or civil? (compare C&P, CHINS, Delinquency, Youthful Offenders with adult proceedings.)
3. Rights of the family to be free from government intrusion.
4. The state's duty to protect.
5. What do we mean by children's rights?
(is it 3 or 4 above, or can children voice their own).
6. Reporting child abuse/neglect.
7. Duties of DCF.
8. The C&P case and the standards of proof in the emergency, 72-hour, and final hearing.
9. Current parental fitness.
10. Best interest of the child.
11. Standards for visitation.
12. Recognizing abuse and neglect. (for example, physical, emotional, sexual, medical, domestic violence.)
13. Termination of parental rights.
14. The rights of parents and children in C&P cases (statutory and constitutional).
15. Distinguishing a CHINS case from C&P, and from Delinquency.
16. Students rights. (Freedom of expression, school violence, search & seizure)
17. Procedures in delinquency cases. (Arrest, jury trial, arrest, bail, pre-trial detention, plea arrangements, duties of the probation department, standard of proof.)
18. Comparison of juvenile and adult rights in delinquency and youthful offender cases.
19. Youthful offender statute. Is it a violation of juvenile rights or a legitimate attempt on the part of the state to address serious juvenile crime?
20. Role of counsel in juvenile cases and possible ethical problems.

*MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM
PROFESSOR DICKINSON
SPRING, 1999*

1. You represent Pamela Pearson. She has related to you the following:

Pamela, a CPA, is thirty-three (33) years old, divorced, and the mother of two children, Billy, sixteen (16) years old, and Brenda, fifteen (15) years old. Pamela married Reginald Pearson when three months pregnant with Billy - Reggie had been her high-school sweetheart, and the only boyfriend that shy Pamela had ever had. Although Pamela went to college, passed the grueling CPA exam, and now runs her own office, until three years ago, her family was her life - Reggie, her two children, and her parents, Cynthia and William Wright, who lived with them. She had no friends, and never went out except shopping and family events. Reggie ruled the home - he not only kept Pamela from having outside friends, but he also prevented her from developing in her professional life. If she was home later than six, it was because she had "boyfriends." While she can only remember Reggie hitting her once, when he hit her so hard on the head that she passed out, she relates that he has always had a violent temper, often getting into fistfights with others, and destroying property. She remembers when she was only fifteen and babysitting, he came over after a night of drinking and punched a hole in the kitchen wall. There are rooms in her house now that Pamela states bear the scars of Reggie's blowups. He also abused her sexually; usually after coming home drunk and/or high on cocaine, when he would force her to have sex. Her oldest, Billy, also bears emotional scars. Reggie used to abuse Billy verbally, and sometimes beat him. Most of these times Reggie was drunk, and most of these times Pamela did not interfere. She thought so little of herself, she thought that Reggie was doing his job as a father.

After Pamela passed the CPA exam, she had to work longer hours. At the same time, Reggie quit his job at General Electric to fulfill his dream - he wanted to become a world-class thoroughbred trainer. At first Pamela supported him, both financially and emotionally. She also bore the brunt of her family's criticism of Reggie, constantly fighting with her mother about him being a "bum" and keeping from her parents, who lived upstairs, the abuse she endured. Over the next seven years, when Reggie was realizing his dream of success was not coming true, he not only drank and did drugs more, but he also began to stay away from home, explaining he was at this track or that track. Pamela, who never once confronted him about it, tolerated him being gone for days, sometimes as long as a month, and many times with no phone call or contact. At the same time, however, she not only began to realize she was abused, but also realized she did not love Reggie anymore. The last time he left, she filed for divorce.

They have now been divorced nearly three years. She has custody of the children, but at the moment is living in an apartment in the next town with her fiancé, Donald Holaday, while the children, by their choice, remain with their grandmother. Pamela explains that when she began to have a social life, her mother began to have problems, lecturing her that she should stay home to

take care of her children, while at the same time doing all the cooking and cleaning herself for the household, so that the children began to obey and be swayed by their grandmother and her beliefs. (Pamela's father in the meantime was in a nursing home for Alzheimer's patients). For about a two year period, Pamela was not home very much, between building up her practice and beginning a new social life. Because her parents were old-country immigrants, who believed a woman's goal was to marry and maintain an immaculate house, Pamela was made to feel like a failure because she was not only divorced but had an active social and professional life. She felt awkward as well, so never brought her friends or dates home. The situation became so bad that her mother used to say to Billy: "Take care of your little sister Brenda, she doesn't have a mother or a father."

In the meantime Reggie had moved to Kentucky in pursuit of his career, and, although Pamela may have also been pursuing hers at the expense of her family, she states to you she had to, receiving no support from Reggie, and supporting everyone in the household herself. When Pamela met and fell in love with Don, she was at first afraid to tell her mother because he was a native American Indian. Her mother was not only very upset when she found out, she also made the children upset. Because Don's vocation was a storyteller for his people, Pamela's mother complained that he was not educated or professional, and that Pamela would have to support him.

After a series of arguments, Pamela moved into an apartment with Don in the next town. She has continued to support her family, picked Brenda up every day for school and dance lessons, and bought a car for Billy. She feels that recently she was beginning to make headway with them about Don, as well as beginning to demand respect from them.

One day, her son Billy offered to take Brenda to dance class, because Pamela was working late. Unfortunately, they got into an accident. His car overturned, and Brenda was hurt severely. She was rushed to the hospital, and had to have emergency surgery to repair injuries to her spine. Reggie flew in from Kentucky, and immediately began to take charge like he used to, according to Pamela. When he found out she was living with Don, he at first said she did the right thing, because he remembered how domineering her mother was, but after he talked to the children, his attitude changed. He reported her to the Department of Social Services, and is talking about himself moving into the house with the children and Pamela's mother. While Pamela's mother is saying that he has matured, Pamela knows that he is still the same controlling and volatile person. Pamela is scared. She wants to know what DSS can and will do, and whether, if DSS decides to file in court, what her rights and liabilities are.

2. You represent Brenda. Assume all the same facts in question one, (except you now represent Brenda rather than Pamela) and the following:

She and her brother are Christian Scientists, believing that prayer can heal, and espousing the right to deny receiving medical treatment. The doctors want to operate on her spine. If they don't, she *could* recover, but the outcome is unsure. If they do, there is an almost one-hundred percent chance she will walk and dance again. Brenda does not want the operation. While neither her parents nor her grandparents are Christian Scientists, Brenda states that she should be able to make this decision. Brenda has always been an honor student, and is also well-liked and popular in school. Besides her dancing, she is also active on Student Council. Her mother feels Brenda's

wishes should be respected, while her father insists she should have the operation. Explain your representation strategy.

3. You represent Billy. Assume all the same facts in question one, (and that you now represent Billy rather than Pamela, but do not assume any of the facts in question two) as well as the following:

In the last three years, Billy has become a problem student, not because of his grades, but because of his attitude. He has been suspended for fighting, and has had numerous detentions for disrupting classes. He ran for, and won, the election for President of the Senior Class. His motto, which he publicized until the administration found out, was "Wright is White and Right." After the student massacre in Colorado, he came to school with a black trench coat. The principal, Marianne Garon, met with Billy's mother, and they discussed his getting counseling. His counselor, Amy Alba, states that, while Billy has been feeling some rage, and currently is going through an identity crisis, she is confident that it is normal adolescent feelings, coupled with the divorce and ensuing family problems. With respect to the accident, The District Attorney may bring charges against him - it turns out he was speeding and also had been drinking prior to the accident. Advise Billy as to *all* of his rights and liabilities.

Massachusetts School of Law
Juvenile Law Exam
Spring, 1998
Professor Dickinson

Ida Mae was fourteen years old when she gave birth to Lawrence. Today he is nearly seventeen. In the interim she had six other children - Laura, sixteen, Nathaniel, fourteen, Jimmy, twelve, Carl, ten, Bobby, seven, and Marlana, five - and married Harold Merryfield. Ida and Harold have lived together on and off during these years. Harold is named as the father on all the children's birth certificates, although Lawrence claims Harold is not his father. When Harold was with the family, he either ignored Lawrence or cussed at and beat him.

From the time Lawrence learned to walk, he started taking care of his younger brothers and sisters. Though Ida only occasionally worked odd jobs out of the home, she was frequently out in the evenings, and, when she was home, she was busy cooking and baking as she ran an "after-hours" club in the house. She taught Lawrence how to cook, and, when he wasn't busy helping her prepare for their guests, he was cooking for the family. When the children became school-age, Lawrence got them ready in the mornings, making breakfast and ironing clothes.

Although Lawrence's dream was to be a scientist, he now is not sure if he is going to college. His grades are not that good, partly because of his family responsibilities, and also because he plays for and manages the Merryfield Family Band. All of the children except Bobby and Marlana perform in the band, although Lawrence frequently brings them on the gigs. The money from the gigs pretty much supports the family now, as Mr. Merryfield left a year ago.

About a year ago, the band was performing at a local nightclub. Bobby and Marlana stayed home with "Uncle" John, who had been staying at the house at that time. (Lawrence claims this man is his real father, while Harold is the father of all the other children.) Ida went with the other children to the nightclub, so she could gather business for her after-hours club. The following day, Marlana told Ida "Uncle Johnny and Bobby took a bath together". Ida ignored Marlana's comment at the time, but a week after that, after Johnny and Bobby refused to take Marlana to the movies with them, Ida became suspicious. She did not say anything, but instead watched the two of them closely for a few weeks. When she saw John and Bobby on the couch early one Saturday morning watching cartoons, she felt even more uneasy. Bobby had neither revealed anything to her, nor did he report anything when she questioned him about the relationship with John. She decided she would find an excuse to have John leave, so one evening she "picked" a fight with him, and he hit her. The police came, and Ida obtained a restraining order barring John from the house. Two weeks after that, he got a job tending bar for a local club; he also plays guitar with a band that sometimes travels out of the area.

A month ago, Lawrence was approached by a man called Peter Gunn, a powerful man in the community who owns several restaurants, a nightclub, and a chain of variety and department stores. It is rumored that some of these businesses are "fronts" for illegal operations such as gaming, selling stolen goods, prostitution and drugs. The lure of swift, easy money caught

Lawrence, and, since the porch needed repair, and the band needed new equipment, he agreed. Unfortunately, he was caught. He had a large quantity of cocaine in his music bags in the nightclub. His job was to leave the bags in the dressing room, and the drugs would be gone by the end of the night. Before he finished playing, however, the place was raided, and the stuff was found. Lawrence refuses to implicate Gunn or anyone else for fear of reprisal to his family. His case is now pending in the Juvenile Court, and the high school principal has suspended him.

The family is currently under investigation by the Department of Social Services, having been referred by the police after Lawrence was arrested. Ida had stopped going out in the evenings to clubs and stopped running her after-hours club about six months ago, because she became a Jehovah Witness. The older children, however, gave her a hard time, refusing to worship with her, and continuing to play in the band though she claimed they were doing the "devils' work". Because they work late hours, the children frequently miss school. Ida has been arguing with Laura over her going out with boys and dating out all night and doing drugs. Jimmy has been diagnosed with a chemical imbalance but Ida refuses to have him take the prescribed medicine because it is against her religion. Bobby began wetting his bed and having nightmares the last three months, and Ida is now convinced that John molested him.

1. You represent Ida. Advise her as to her rights and liabilities concerning all possible present and future cases concerning her children.
2. You represent Lawrence. Advise him as to his rights and possible courses of action concerning his Juvenile matter and school suspension.
3. You are a Juvenile Judge.
 - a.) Assume you have just presided over a temporary custody hearing (72-hour) in the Merryfield matter. Draft your decision, along with supporting findings and rulings.
 - b.) Assume you have just heard Lawrence's plea in the Juvenile case. Draft your decision, along with the disposition you will order for him.

MASSACHUSETTS SCHOOL OF LAW

JUVENILE LAW FINAL

SPRING 1997

PROFESSOR DICKINSON

Monica Miller is a thirty-four year old mother of four children, currently separated from her husband, Frank Miller, thirty-seven. Frank moved out of the home a month ago, when he was served with a restraining order. (The order has been continued for a year.) He has not seen his children, Abigail, sixteen, Maureen, fifteen, Johnny, thirteen, and Tracy, three, since he moved out. He has called the Department of Social Services, alleging the children are unmanageable without him there, complaining that Monica is refusing visitation and that she is poisoning the children against him. He also claimed they were unsupervised most of the time, and neglected by Monica. DSS began an investigation, and went to the home to interview Monica and the children.

According to Monica, the children are terrified of Frank. Although he does not beat the children, Monica says he does not have to, because he is "in control." In fact, she says, when he is not "in control," he is "out of control," destroying, smashing and breaking things and being verbally abusive. She recalls him picking up Johnny and flinging him on the bed recently, and a few times punishing the girls physically when they were younger, but, generally, he is not physically abusive. He does not hit Monica, although when she refused to have sex once he started choking her, and hit her on the head, knocking her unconscious for a bit. Since then, she always acquiesces when he forces her to have sex, which is frequent.

Monica states that she did not realize she or the children were being abused until about six months ago. She is currently in her third year of law school, and took a Family Law course that concentrated on Domestic Violence. At about the same time she began having nightmares, she says, because she was being forced to confront issues she had denied for a long time. She began therapy, and learned she had Post Traumatic Stress Disorder; she wanted to bring the children to a therapist, also, but did not know how she could do it without Frank's knowledge, as he kept a tight rein on them. She was only able to go because he thought she was in class. Besides going to school, Monica teaches high school English. She attends law school at night. When Frank was there, he usually stayed with the children, unless he was out drinking, which was frequent. Abigail baby sat, and took on a lot of the chores, even more so now that Frank is out of the house.

Although the children have not been removed from the home, DSS has filed a Care and Protection Petition. DSS alleges that the children are frequently unsupervised, Abigail seems to be taking on the mother's role, Maureen has in the last year been disruptive at school, Johnny is disobeying and being abusive at home, to his sisters and mother, and Tracy is bedwetting and waking up at night with nightmares. In addition the girls do not want to see their father, although they do not want him to know this. Johnny says he wants to see his father, but Monica alleges this is because Frank has him "brainwashed."

Frank is a construction supervisor, and generally works from 7:00 a.m. until 5:00 or 6:00 p.m. He states that if they remain separated and Monica were found unfit, he would take care of the children, with perhaps a babysitter or his mother's help with Tracy, and with the other children if he were home late. He admits that he sometimes drinks too much, but denies that he is an abuser, complaining that Monica is too full of herself now that she is in law school. He says that only war veterans get PTSD, and it is the most ridiculous thing he has heard of for his wife, or any woman to complain that they have it.

He understands that sometimes women can suffer when they are in an abusive relationship, but denies that he has ever been abusive. He instead blames Monica for being abusive to his children, and says he needs to be in the picture to oversee things.

- (1) You represent Monica. Advise her of all possible outcomes of the Care and Protection case, beginning with the first hearing and up to and including possible appeals. (Remember she is a law student so you use legal analysis and cite authority.)
- (2) You represent Frank, and have just learned that Abigail allegedly made statements to a social worker that, for the past year, he has been forcing her to have sex when the other children are in bed and Monica is at school. Advise Frank of all possible outcomes.
- (3) You represent Maureen, and you have just learned she was caught dealing drugs at school. Advise her of all possible outcomes.

MASSACHUSETTS SCHOOL OF LAW
SPRING, 1996
JUVENILE LAW FINAL
PROFESSOR DICKINSON

You just interviewed a woman named Wanda Previte, age thirty three. She has five children, Agatha, sixteen, Jackie, thirteen, Michael, fifteen, David, nine, and Lauren, two. The four oldest are from a prior marriage; Lauren is the child of Wanda and Jack. Wanda married Jack three years ago, five years after her first husband, Warren Scott died.

Wanda has come to seek your legal advice because the Department of Social Services is currently investigating her family. One of David's teachers believes he is being sexually molested by his older brother Michael. An investigator has been to the home, spoken to members of the family, and Wanda has just received notice that the report of abuse has been screened in by DSS.

When questioned by you about the possible truth of these allegations, Wanda responded that David's behavior over the past six months did indicate something was wrong. His grades had plunged and he was constantly in trouble at school - in fact he was suspended for a week not long ago for assaulting another boy. He also had been skipping school and the school had taken out a CHINS complaint two months ago. Since then, he had attended school regularly, and his grades had improved but not dramatically. David had previously been a straight A student. Wanda's children have always done well in school. Wanda has always pushed them to try their hardest. Agatha, the oldest, has been accepted at Harvard University for the fall.

Jack has been extremely angry with David over the whole situation. He frequently takes David into another room alone, and David emerges after, red-faced and scared. Wanda has attempted to question David alone, but all he will say is he does not want to get Jack in trouble. You suspect that Jack may be the person molesting David, but Wanda refuses to discuss this possibility.

You then ask Wanda to describe what goes on at home on a daily basis. She is a nurse and works second shift, from 3-11 p.m., at the local hospital. Jack is an accountant, and frequently works twelve hour days. Even though the children are alone frequently, the house is spotless. All three older children

are good cooks, and also are responsible for cleaning the house. When Jack comes home, there is always a prepared meal waiting for him, usually cooked by the children. Both Jack and Wanda have always expected a lot of the children - they must always be polite, neat, do their homework and their chores. The children do not go out very much. Though David had clearly been violating most of the rules of the house, Wanda states that neither he nor any of the others are ever physically punished. Instead there will be an increase in chores, a deprivation of privileges, and the parents will attempt to talk to the misbehaving child to see what the problem is. Because of Wanda's work schedule, Jack has been in charge of the children more over the past year.

1. After relating the above, Wanda states that she is afraid DSS may take her children away from her. Advise Wanda of her rights, predicting all the possibilities regarding her family.

2. Assume you never met with Wanda. DSS filed a Care & Protection Petition regarding the sexual abuse of David by Jack. You have been appointed to represent David, who tells you all of the above, and that Jack has been sexually abusing him. He begs you not to tell anyone, and wants you to promise as his lawyer that you will do everything possible to ensure that he stays at home. What is your representation strategy?

3. Assume that Agatha found out Jack was molesting David. She saw them together in Jack's bedroom before dinner, and she was so enraged that she poisoned Jack. She has been charged with delinquency by reason of first degree murder. What will happen to Agatha?

4. Suppose Massachusetts has passed a statute eliminating transfer proceedings for children over fourteen charged with murder or manslaughter. Agatha, therefore, is going to be tried automatically as an adult. Argue that this statute is invalid.

MASSACHUSETTS SCHOOL OF LAW
SPRING, 1995
JUVENILE LAW - PROFESSOR DICKINSON

Mrs. Alma Porter is a 42 year old divorcee with five children: Anna, age nine, Thomas, age eleven, Felicia, age fourteen, Joseph, age fifteen and James, age eighteen. All of the children are from Alma's first marriage to Nick Porter, age 41. Nick and Alma were divorced two years ago, and Alma has custody of the children. She owns a four bedroom Georgian split in an affluent suburb and runs an all-night diner in a nearby city. Her income is approximately \$90,000 annually. Nick does not pay child support and has not seen any of the children since he moved to Florida a year ago, and the year before that he had only seen the children about once every month or so. He recently moved back, and has a job at a nearby horse track. He makes under \$20,000 annually. During Nick and Alma's marriage, and at the present time, Nick abuses both alcohol and drugs. He drinks beer every day, smokes pot and does cocaine. While he was not physically abusive to either Alma or the children, he frequently destroyed property and terrorized Alma and the children when he was high. Alma sought therapy after the divorce for herself and the children. None of them are in therapy at the present time.

Alma's boyfriend, Rob Jackson, who tends tables and bartends at the diner, has been living with Alma and the four younger children for the past ten months. The oldest, James, is away at college. A week ago, James was caught dealing cocaine. He is not the only child in trouble in the Porter family. Joseph has been abusive to his girlfriend, Lisa. Last Friday night, he beat her with a baseball bat and she is in the hospital with fractured ribs and a broken ankle. On Saturday morning, the police came to the house and brought Joseph to the station for questioning. His mother was working, and his father could not be contacted at the track. Rob went to the station late in the afternoon. Miranda warnings were given to both Joseph and Rob. Rob convinced Joseph to tell the truth and Joseph signed a typed statement about the beating. Joseph also told the police that he treated all females in an abusive manner because he had seen his father treat his mother that way.

Felicia, always an A student, has not only done poorly in school

this year, but is also frequently truant and belligerent at home. She and her mother cannot agree on anything. When Alma is at the diner, or sleeping, or out with Robert, Felicia cares for Anna and Thomas. She is also responsible for cleaning the house, but she rarely does it, prompting many of the arguments between her and her mother. Most of the time she will feed Anna and Thomas, and then go out with her friends. Joseph is either home with some of his friends, or out also. When Joseph is at home, he and Felicia frequently fight.

Nick is alleging that Robert has been sexually abusing both Anna and Felicia. He states that they have told him this, however, both girls are presently denying any sexual contact.

When the police came to pick up Joseph, no adult was at home. It was 9:30 a.m. and Anna was watching cartoons and eating cookie dough. Joseph had been sleeping, Felicia did not come home the night before, and Thomas was out in the driveway playing basketball with some other boys. There were overflowing ashtrays and beer cans in the living room, and there were unwashed dishes on the kitchen table.

- A. Discuss all the procedures available in the Commonwealth relative to the Porter children, from start to finish, referring to both statutory and case law.
- B. You represent Alma. Discuss her rights and interests, as well as your representation strategy.
- C. You represent the state. Discuss its obligations and interests.
- D. You represent the children. Discuss their rights and interests, your role as counsel, and your representation strategy.

PD. JUVENILE

MASSACHUSETTS SCHOOL OF LAW
JUVENILE LAW EXAM
SPRING, 1993
PROFESSOR DICKINSON

You have three hours to complete this examination, which consists of two essay questions. Please write your social security number on every blue book you use. Please write in ink, and use only one side of a page. This examination is open book; you may use whatever materials you wish in formulating your answers. Because it is open book, I shall expect the use of specific authorities in your answers. Assume that the jurisdiction for the following fact situations is Massachusetts.

QUESTION ONE

You represent Krystal and Kurt Davis. Their children, Kerry, age five, and Kyle, age three, have been temporarily removed from their custody by the Department of Social Services (DSS). They relate to you the following events: Krystal was playing peekaboo with the children, dropping a towel over their faces as they splashed in the tub. A corner of the towel got wet and snapped across Kerry's cheek, leaving a red mark. She started to cry. "Oh, no!" Krystal called to Kurt, picking Kerry up and hugging her. "I've whipped Kerry with the towel!" They both comforted her and she soon stopped crying.

The next day, a DSS social worker called Krystal at home. She explained that a counselor at Kerry's school had reported that Kerry was being sexually abused by her father. Kurt, who worked in construction, was out on the road and could not be reached, so Krystal went down to the school immediately. There she met with the counselor and the social worker. They explained that when the counselor asked Kerry about the mark on her cheek, Kerry said something about being "whipped", so the counselor questioned her further. Kerry then talked about oral sex, using the words, "penis" and "vagina", and had said that Kurt asked her to touch his private parts. The social worker stated that Kerry said the same thing to her, and that based on these allegations, she would have to remove both Kerry and Kyle from the home temporarily while the investigation was done. Krystal tried to explain the story about the towel and kept insisting nothing was wrong, but the social worker said if she cooperated, the children could be placed in her mother's care rather than a foster home and she, but not Kurt, could visit them. Krystal reluctantly agreed to this arrangement. When Kurt came home from work that day, he was as upset as Krystal, but decided to go along with DSS.

Kurt and Krystal have come to you because DSS has filed a Care & Protection case regarding the children, obtained temporary custody on an emergency basis, and the court has

scheduled another temporary hearing to decide whether to continue this emergency order. They are also concerned because DSS has told them that the District Attorney is investigating. You obtain relevant copies of the DSS file. There is no medical evidence of sexual abuse, but you know there are many cases where an adult sexually assaults a child and, because the child was not penetrated, there is no medical evidence. The psychological evidence appears inconclusive. The counselor states, and the social worker affirms, that Kerry touched her father's private parts and had oral sex with him. The grandmother, with whom Kerry has been staying, states that Kerry denies these statements. She also states that she believes that Kerry, frightened because she was being questioned about the "whipping", was led to agree with her interviewers' statements, rather than voluntarily giving explicit details of sexual abuse. Krystal also relates that recently Kerry had come home with questions about sex after her had a seven year old neighbor had been talking about boys and sex.

Advise Kurt and Krystal as to their rights and liabilities regarding this situation. Take into account all actions regarding this incident. They also want to know whether they should cooperate with DSS so that they can get their children back or to "fight this thing". Krystal fears there is a possibility that they may lose their children forever.

QUESTION TWO

You have been appointed to represent thirteen year old Cody Wycolf. He has been charged with delinquency by reason of armed robbery arising from a holdup of a gift shop. The only evidence against Wycolf consists of his identification by the shop owner, who insists Cody and three men, all members of a fallen political group called "The Fathers", robbed him at gunpoint. All were masked, and he could not identify the men, but he states he recognized Cody as he appeared on television often because he was related to Senator Kreutzer, the founding member of the Fathers. It was believed that Kreutzer, who is now dead, was the boy's real father. Harry Wycolf, who brought the boy up as his own, discovered his real son was switched at birth with Cody as part of the Fathers' crazy plot to take over the world. Harry was responsible for the overthrow of the Fathers; sadly, he lost his wife in the process as she was killed by her own mother, the Senator's sister. Since then Harry has recovered his true son, Peter, and has rekindled an old relationship with Page, a woman who used to be with the Fathers but turned against them. She also happens to be Cody's real mother. Both Harry and Page have spoken with you and they are extremely concerned about Cody's well-being. They would like to see him get help, and they would also like to get custody of him. Cody maintains that he hates Harry and Page, blaming

them for the death of the senator and the overthrow of the Fathers. Since that happened, Cody has been on the run with rebels who wish to reestablish the Fathers' rule. He admits to you that he committed the offense. He does not wish to live with Page and Harry, and he does not want to go to a foster home or DYS. He states that if you were to "get {him} off", he would stay with his aunt, the Senator's sister. It is reputed that she is leading the underground movement to regain the power of the Fathers. Cody has no prior record. He was also an A student. You believe that at trial you could impeach the shopowner's testimony because he is old, easily confused, and had a breakdown after his son was killed by the Fathers. It appears as if he is blaming this robbery on the Fathers as well, but because he can make no identification, he is blaming the one person who he knows is a member.

Discuss your role as counsel for Toby.

MASSACHUSETTS SCHOOL OF LAW
SPRING, 1992
JUVENILE LAW - PROFESSOR PAULA DICKINSON

You have three hours to complete this examination, which consists of two essay questions. Each question is worth fifty percent of the final grade for this exam.

Please write your social security number on every examination book you use. All exams should be written in ink, using only one side of a page.

This exam is open-book. You may use your book, your notes, and handouts given out during class. Because it is open book, I shall expect the use of specific authorities in your answers.

QUESTION ONE

You are a law clerk for a District Court judge. The judge has to issue a decision in the McLaughlin case, a care and protection case which was recently tried. The criminal case against the father regarding the children and a neighbor is still pending in the Superior Court. You have been supplied with the court's Findings of Fact (see attached), and the judge wishes you to write a memo recommending whether the children should be adjudicated in need of care and protection under the statute. You have been asked to address in your analysis the rights and interests of the state, the children, and the father. The judge has always been particularly concerned about the conflicting aspects of the juvenile system, and therefore she is having a difficult time making the required rulings in this case. Please address and resolve this conflict also in your analysis.

QUESTION TWO

You have been appointed to represent thirteen-year-old Michael Lanzio, charged with delinquency by reason of the attempted murder of Tom Parker, a twelve year old classmate.

After an interview with your client, you have discovered the following facts:

On February 21, 1992, Michael was visiting thirteen-year-old Anthony Perkins, his next door neighbor. Michael visited at the Perkins home often, especially when Mrs. Lanzio beat him. Michael's mother and father divorced when he was two, and his father then moved out of state and remarried. Except for an occasional holiday visit, Michael has had no contact with his father. Mrs. Lanzio has been treated for depression and substance abuse over the years. She lost custody of Michael for about eight months when he was ten, but he was returned after

Mrs. Lanzio underwent therapy and obtained a full time job as a hairdresser. During that time, the Department of Social Services offered to place Michael with Mr. Lanzio but Mr. Lanzio refused, so Michael was placed in a foster home. Though she still works, Mrs. Lanzio has had a hard time coping with the loss of her boyfriend, Joseph, who died in a car accident a year ago. She had been going with Joseph for seven years. According to Michael, she has been drinking and taking cocaine heavily since Joseph's death. He frequently fights with her about it--on several occasions the neighbors called the police but "the cops didn't do anything". Apparently, Michael gets upset when she is high, they begin fighting, and she usually hits him. Several weeks ago, Mrs. Lanzio burned Michael on the arm with her curling iron. She was drinking, and preparing to go out, and Michael was upset because there was no food and the house was a mess. When she raised her hand to hit Michael, he put his arm across his face, and she then intentionally took her iron and applied it to his arm. He told his teacher about it the next morning, but, according to Michael, nothing was done.

On February 22, Michael, Anthony and Tom were in Anthony's backyard riding Anthony's and Tom's snowmobiles. They had just eaten lunch at the Perkins' home--it was school vacation. Mrs. Perkins and Anthony's younger sister, Tina, age four, were in the house. Anthony and Tom were taking turns letting Michael drive, as he did not own a snowmobile. At one point Michael was on one snowmobile and Tom and Anthony were on the other, when Michael overheard some conversation about the two being best friends. He became jealous, but did not say anything. About three o'clock in the afternoon, Tom was preparing to ride his snowmobile home through the field. He asked Anthony to accompany him. Anthony asked Michael to ride with them. At first Michael refused, because he was angry at the earlier comments, but then he asked them to wait while he went in his house for a dry pair of gloves. Michael went in his house, up to his bedroom on the second floor, and picked up the gloves. He then went to the bathroom. When he got out of the bathroom, he could hear the two boys' laughter from outside. He proceeded into his mother's room where he could see the two boys seated on their snowmobiles, waiting for him. He then took from his mother's closet a hunting rifle belonging to her late boyfriend, Joseph, along with the ammunition. Mrs. Lanzio had not thrown any of his belongings out and left them exactly as they were. Joseph had frequently taken Michael hunting with him, so Michael knew how to handle the rifle. Michael loaded the rifle and stepped to the window. He then fired at the boys once. The shot hit Tom in the shoulder, injuring him. Because the window broke, Michael was also hurt--he sustained cuts on his face.

Tom was rushed to the hospital and the police were called. They took Michael to the station, where he remained from four o'clock until midnite. During that time he asked for and was given a coke. His mother came to the station at 6:00 p.m. after the police called her at work at 4:15 p.m. She was high, according

to Michael. Miranda warnings were read to both Michael and his mother. Michael had not discussed the incident before the warnings were given. Because he was angry at his mother, Michael refused to talk over with her whether he should cooperate and speak with the police. He decided to "tell the truth". He was then questioned, and ultimately signed a typed statement at about 11:40 p.m. This statement covered all of the above facts related to the shooting, but Michael did not tell the police about his mother abusing him. Michael also stated that he had not planned to shoot Tom, but when he heard the two boys laughing he became enraged and thought he would try to "scare" them.

Michael feels extremely remorseful for shooting Tom, and tells you that he thinks he needs "help".

Explain your representation strategy concerning the delinquency case. Would you also recommend any other legal actions concerning Michael? Explain why or why not.

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