

Court Finds Child Welfare Services Agent Who Interviewed Student at School Violated Fourth Amendment

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The United States District Court for the Southern District of California recently reached a decision that appears to impact the ability of law enforcement personnel or non-school government agencies to interview students on school grounds. (*Dees v. County of San Diego* (N.D.Cal, Oct. 10, 2017, No. 3:14-cv-0189-BEN-DHB) __ F.Supp __ [2017 WL 451103] . County Child Welfare Services (“County”) investigated allegations of child sexual abuse by a stepparent. After County’s investigator interviewed the parents and children and found no signs of abuse, the investigator’s supervisor instructed her to close the case. Around the same time, the police department and district attorney informed the investigator that they would not be pursuing the case. Finally, the student’s grandmother had told the investigator that for any further interviews, the parent would insist on an attorney being present. The investigator subsequently interviewed one of the involved children at school without the parents’ consent in order to “wrap up the investigation [and] make sure that the children were okay.” She explained that it was County’s policy and practice to interview students at school at any time, regardless of parent consent, as long as a child abuse investigation remained open.

The Court found that the investigator was acting as a law enforcement officer when she arrived at the school to interview the child, and that school officials had not undertaken the interview for the purposes of maintaining order in the school. The Court held that an interview of a student on school grounds by non-school officials for law enforcement purposes-in the absence of a warrant, court order, parental consent, exigent circumstances, or at the very least, reasonable suspicion the student was the subject of child abuse or neglect-constituted an unlawful seizure in violation of the Fourth Amendment. Because the investigator had no evidence the children were being abused, had been instructed to close the investigation, had no evidence that either child was in danger, and had been told parent would not consent to an interview, the County investigator’s actions were found to have been deliberately indifferent to the parent’s familial rights in violation of the Fourteenth Amendment.

This case has implications on a school district’s practices for allowing interviews by non-school officials, especially if the interview is unrelated to maintaining school order.

For more information, please **contact a DWK attorney.**

PRACTICE AREAS

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