

**OKLAHOMA COMMISSION ON CHILDREN AND YOUTH  
OFFICE OF JUVENILE SYSTEM OVERSIGHT**

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**Report Release Date: October 3, 2007**

**Review of the Death of DeClan Stewart  
of Oklahoma County, Oklahoma**

**Dates and Outcome of Investigations and Actions Taken by the  
Department of Human Services; Actions Taken by the District  
Attorney; Dates and Summary of Judicial Proceedings; and Rulings  
of the Court**

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**General Information**

On August 15, 2007, the Office of Juvenile System Oversight (OJSO) received a request for a public report regarding the death of a child, DeClan Stewart. The death occurred on August 12, 2007. A First Degree Murder charge was filed on August 30, 2007, on Marcus Clancy. The following is a summary of the actions taken by the Department of Human Services (DHS); the actions taken by the district attorney; judicial proceedings; and the rulings of the court, as authorized by 10 O.S., Chapter 70, Section 7005-1.9, D and E (below).

**Authorization**

Title 10, Section 7005-1.9, D and E, of the Oklahoma Statutes, states:

D. 1. At any time subsequent to seven (7) days, but no more than thirty (30) days, of the date the person responsible for the child has been criminally charged, the Oklahoma Commission on Children and Youth shall, upon request, release certain information to the public as follows:

a. a confirmation shall be provided by the Commission as to whether a report of suspected child abuse or neglect has been made concerning the alleged victim or other children while living in the same household and whether an investigation has begun,

b. confirmation shall be provided by the Commission as to whether previous reports of suspected child abuse or neglect have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department [DHS] and the Commission in response to any previous report of child abuse or neglect, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,

c. the dates of any judicial proceedings prior to the death or near death of the child,

d. recommendations submitted by the Department [DHS] and the Commission shall be provided in writing including recommendations made at the hearing as they relate to custody or placement of a child, and

e. the rulings of the court.

2. Specific recommendations made by the Commission described in any progress reports of a pending case submitted to the court may be disclosed by the Commission.

E. Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of child abuse or neglect, and shall not identify the name of the child victim's siblings or other children living in the same household, the parent or other person responsible for the child or any other member of the household, other than the person criminally charged.

**Identifiers:**

Child's name: DeClan Tristen Stewart  
Date of birth: April 23, 2002  
Date of death: August 12, 2007

Biological Mother:

Biological Mother's boyfriend: Marcus Clancy

Other children in the home: Marcus Clancy has three biological children who visited every other weekend. The three children were in the home when DeClan died.

The Oklahoma Commission on Children and Youth did not become aware of this case until after the child's death.

**Summary of Actions Taken by the Department of Human Services; Action Taken by the District Attorney; Judicial Proceedings; and the Rulings of the Court:**

The child welfare history prior to the child's death was reviewed by the OJSO. The DHS documented seven referrals regarding the child's biological mother. When the first

referral was received on December 31, 2005, Marcus Clancy was involved with the family; he was the mother's boyfriend.

#### Referral 1 (December 31, 2005)

The DHS received the first referral regarding the family on December 31, 2005, alleging the child was examined at an emergency room after having vomited about twelve times. The reporter also alleged that the child had a soft spot on the back of his head that caused him to "wail" when touched. The reporter stated that this was the fourth visit to the emergency room for the child and that the child had been at his great-grandparents' home, prior to each of the four emergency room visits.

The DHS assigned the referral as a Priority 1 for investigation. The child welfare worker initiated the investigation within the required timeframe by visiting the hospital on December 31, 2005, where the child had been admitted. The worker documented an interview with the child's mother, who stated that the child had been taken for treatment at the emergency room about three times in the previous year. According to DHS documentation, the mother also stated that the last injury had occurred while the child was at his maternal great-grandparents' home. Reportedly, the great-grandparents had told the mother that the child slipped and fell on a tiled floor. In the interview, the mother described the child as "very clumsy." The mother disclosed four other incidents in which the child had been injured. One of those incidents was when the child fell out of her boyfriend's car when the child was attempting to get out. According to the biological mother, the child was examined at an emergency room. The worker documented that the mother agreed to "any type of services" that DHS thought would be helpful.

Documentation indicated that DHS also interviewed the child's maternal great-grandparents on December 31, 2005. The worker documented both stated that although they did not see the child slip on the floor, when the great-grandfather went to check on the child, the child had fallen but that he "jumped right up."

The DHS made a finding of Confirmed-Court Intervention Requested. The DHS requested the district attorney to file a petition with the court to adjudicate the child as deprived. The DHS investigation was closed on January 17, 2006.

#### Referral 2 (January 4, 2006, at 9:34 a.m.)

The DHS received a second referral regarding the family on January 4, 2006, alleging the child had been injured numerous times in the past twelve months, resulting in the child being treated at an emergency room on at least four occasions. The reporter stated the child had suffered a skull fracture.

DHS documentation indicated the referral was screened out and combined with the first referral of December 31, 2005, for investigation. The allegations in the January 4, 2006,

referral were to be addressed in the investigation regarding the referral on December 31, 2005.

Referral 3 (January 4, 2006, at 5:11 p.m.)

The DHS received a subsequent referral on January 4, 2006, regarding the family. The reporter alleged the child had been seen at school with bruises on the front of his head. The reporter stated that the bruises were reportedly caused when the child bumped his head on a porch railing as he was sneaking out of the house. The reporter was concerned as to whether or not the child had received medical care for his injury.

The DHS assigned the referral as a Priority I for investigation. The child welfare worker documented a failed attempt to observe the child in the home on January 4, 2006. The worker visited the home again on January 7, 2006, and documented a face-to-face contact with the child.

The DHS documented an interview with the mother as occurring on January 7, 2006. According to documentation, the mother stated she had moved in with her boyfriend and they "planned on making a life together." The mother reported that her boyfriend's three children were living with their grandparents, but that her boyfriend planned to regain full custody of his children.

The DHS made a finding of Confirmed-Court Intervention Requested. The DHS documented that conflicting statements were made as to how the mother's child (DeClan) had received the head injury. A voluntary family service agreement was prepared and signed by the mother and the worker on April 7, 2006. The mother agreed to provide better supervision to her child and not to leave the child unsupervised in the care of the child's maternal great-grandparents. The DHS investigation was closed on January 17, 2006.

Referral 4 (January 9, 2006, at 3:55 p.m.)

The DHS received a fourth referral regarding the family on January 9, 2006, alleging the child had suffered a skull fracture the previous week and that he currently had black-and-blue bruising in the area from his testicles to his rectum. The reporter also alleged there was unexplained bruising to the child's penis, thigh, and buttock. The reporter stated the child had not urinated for a week, had been vomiting, and had lost a lot of weight. The reporter stated that the child was crying and remained in a fetal position most of the time. The caller reported that the child had been transported to a hospital. Reportedly, the mother's boyfriend lived in the home, also.

DHS documentation indicated the referral was screened out and combined with the first referral of December 31, 2005, for investigation. The DHS documented that all of the allegations in the January 9, 2006, referral were to be addressed in the ongoing investigation from the December 31, 2005, referral. However, the DHS's findings made for the December 31, 2005, referral did not include findings for the allegations in the

January 9, 2006, referral. The DHS did not include findings for the allegations against both the mother and her boyfriend for sexual abuse, failure to obtain medical attention, and inadequate nutrition.

Referral 5 (January 9, 2006, at 4:37 p.m.)

The DHS received a subsequent referral regarding the family on Monday, January 9, 2006, alleging the three-year-old child had been taken to an emergency room again and that there were concerns regarding abuse and neglect of the child by the mother and her boyfriend. Allegedly, the child had bruising to his genitals and a skull fracture. Reportedly, the child had a history of injuries. The reported stated concern that the child had been injured other times and the family had taken the child to different hospitals for treatment.

The DHS assigned the referral as a Priority I for investigation. The investigation was initiated within the required timeframe. The DHS documented interviews with the mother, her boyfriend, the maternal great-grandmother, and the maternal great-grandfather. DHS documented in the Report to the District Attorney that the mother stated that the child “did not have any bruises as of Saturday afternoon,” and that she denied knowing how the child received the bruises. According to DHS documentation, the mother also stated that her boyfriend (Marcus Clancy) was the one who was potty training the child and that her boyfriend had given the child a bath and put the child and the other children (the boyfriend’s children who were visiting) to bed on Saturday night. DHS documented that the boyfriend stated that he and the mother put the children to bed on Saturday night and that he did not have an explanation for the child’s (DeClan) injuries. Documentation stated that both maternal great-grandparents had concerns for the safety of the child when the child was around the mother’s boyfriend.

The child was admitted to the hospital and placed into police protective custody on January 9, 2006. The police report stated that the child was placed into protective custody because of the “redness, swelling, and dark blue and purple bruising” from the child’s scrotum to the anus. In addition, the police report documented bruising to the child’s left thigh, along his spine, and on the right shoulder.

An Emergency Show Cause hearing was scheduled for January 10, 2006. DHS requested an order for emergency custody of the child; however, the mother waived her right to the Show Cause hearing, after having her rights explained. The court upheld the DHS’s recommendation for the child to remain in DHS custody, pending further investigation.

The safety assessment completed by the child welfare worker documented that the child would likely be in immediate danger of serious harm if he remained in the home. The DHS made a finding of Confirmed-Court Intervention Requested.

The child was discharged from the hospital on January 11, 2006, and placed in a shelter. On January 12, 2006, the child was transferred to a different shelter.

#### Petition Filed by the District Attorney (January 17, 2006)

The district attorney filed a petition with the district court on January 17, 2006, to adjudicate the child as deprived.

#### Kinship Foster Care (January 20, 2006)

On January 20, 2006, the child (DeClan) was placed in a kinship foster home.

#### Referral 6 (January 24, 2006)

The DHS received a sixth referral regarding the family on January 24, 2006, alleging the child had not been to school since January 4, 2006. The reporter stated the child had previously suffered a skull fracture to the back of the head and facial bruising. Reportedly, the child had attended school with the injuries and the mother had not provided the school with medical information regarding the injuries.

DHS documented that the referral was screened out without investigation, because those allegations were already known to the DHS and the child was in DHS custody.

#### Referral 7 (January 25, 2006)

A seventh referral was received regarding the family on January 25, 2006, alleging the child had missed an appointment at a medical clinic. The reporter stated that the last time the child was seen at the clinic, he had bruising to his buttocks, swelling and bruising to his testicular area, and abdominal pain.

The DHS documented that the referral was screened out without investigation, because the allegations were already known to the DHS and the child was in DHS custody.

#### DHS Investigation Re-opened (February 2, 2006)

On February 2, 2006, the DHS re-opened the investigation regarding the allegations in the third referral of January 4, 2006 (5:11 p.m.). An addendum was completed, documenting two separate police reports regarding possible sexual abuse of the child.

#### Amended Petition by the District Attorney (February 3, 2006)

The district attorney filed an Amended Petition on February 3, 2006, requesting to terminate the mother's parental rights to the child, based on the shocking and heinous nature of the allegations.

### Court Hearing (February 6, 2006)

A court hearing took place on February 6, 2006. The journal entry by the court stated that the Indian Child Welfare Act did apply in the case and that the Cherokee Nation was the designated tribe. In addition, the court ordered for visitation to occur between the mother and the child and requested that DHS prepare a voluntary treatment plan for the mother.

### Possible Tribal Involvement

The DHS received a letter, dated February 25, 2006, from the Cherokee Nation, acknowledging its possible involvement in the case.

### Court Hearing (March 6, 2006)

A court hearing was held on March 6, 2006. The DHS recommended that the mother's parental rights be terminated to the child, based on the heinous and shocking nature of the abuse. The court determined that the Indian Child Welfare Act applied in the case but ordered that the child remain in DHS custody. The court requested that the Cherokee Nation be notified and that the district attorney's office issue notice by publication for the child's biological father. The mother requested a jury trial.

### Court Hearing (May 22, 2006)

A court hearing was held on May 22, 2006. The DHS recommended to the court that the child remain in DHS custody in the current placement, the child be adjudicated deprived as to his mother, and the treatment plan for the mother be adopted by the court. The court ordered that the child remain in DHS custody.

### Parental Rights of the Biological Father (May 23, 2006)

The biological father's parental rights to the child were terminated on May 23, 2006.

### Court Hearing (June 19, 2006)

A court hearing was held on June 19, 2006. The court ordered that the child remain in DHS custody. A court entry stated that the Indian Child Welfare Act did apply in the case. Documentation stated that the court was provided information verifying that the mother had attended anger management and parenting groups, and that the counselor recommended that the mother continue to attend the group sessions.

### Court Hearing (August 3, 2006)

A court hearing was held on August 3, 2006. The DHS was requested to enroll the child as a member of the Cherokee Nation and to prepare a voluntary treatment plan for the mother.

### Voluntary Family Service Agreement (August 16, 2006)

Documentation indicated the DHS prepared a voluntary family service agreement for the mother's boyfriend, which was signed by him and the worker on August 16, 2006. The services listed for the mother's boyfriend to receive were parenting classes, anger management, substance abuse prevention services, family therapy, and individual therapy. The voluntary service agreement stated that he was "to have a drug-free life and provide a home free of drugs, to obtain basic parenting skills to better take care of his children, to control emotional and anger issues."

### Safety Assessment (August 16, 2006)

Documentation indicated that on August 16, 2006, the DHS completed a safety assessment on the family, in conjunction with the voluntary family service agreement. Based on the assessment of risk to the child if he remained in the home, the DHS determined that the child was unsafe in the home.

### Journal Entry by the Court (October 12, 2006)

A journal entry, dated October 12, 2006, stated the mother's boyfriend was working on a voluntary treatment plan.

### Court Hearing (November 30, 2006)

A court hearing was held on November 30, 2006. The court ordered that the child remain in DHS custody. A court note stated that no criminal charges were being filed at that time and that the "State strikes prayer for termination and heinous and shocking allegation-Tribe does not support termination re: abuse, but does support adjudication."

### Court Hearing (January 11, 2007)

A copy of the Journal Entry documented that the Dispositional Hearing was held on January 11, 2007. The DHS Dispositional Report to the court documented the date of the hearing as December 11, 2006. At the Dispositional Hearing, the court ordered the DHS to pay for a psychological evaluation. The court order did not specify the name of the person to have the psychological evaluation.

### Court Hearing (March 15, 2007)

A Permanency Planning Hearing/Review was held on March 15, 2007. The court found that the parents had done well since the previous hearing. Documentation stated that supervised visits could occur after the psychological reports were reviewed and it was determined there no issues.



## DHS Contact Notes

The DHS worker documented that on April 16, 2007, the child was left in the care of the foster mother's boyfriend at the foster home. The documentation also stated that the mother continued to visit the child on an "unsupervised days basis." DHS documentation did not indicate a new referral was opened for an assessment or investigation of abuse and/or neglect.

The DHS documentation indicated a written plan of compliance was developed for the kinship foster mother. The DHS documented that the kinship foster mother had allowed her boyfriend to stay overnight at the foster home and had left the child alone in the care of her boyfriend, who had an Assault and Battery offense listed on his criminal record history. According to documentation, the foster mother signed the plan of compliance on April 26, 2007.

On July 3, 2007, the child was placed back into the mother's home for trial reunification. The child remained in DHS custody. A journal entry in the court record stated that the mother had completed her treatment plan and that the Cherokee Nation was in agreement with the reunification. A review hearing was scheduled for August 9, 2007.

The worker documented a visit to the home as occurring on July 11, 2007. According to documentation, the child was in the home with his mother. The worker did not document any concerns from the visit.

## Court Hearing (August 9, 2007)

A Permanency Planning Hearing/Review was held on August 9, 2007. The child remained in DHS custody.

## Referral 8 (August 11, 2007)

The DHS received an eighth referral regarding the family on August 11, 2007, alleging the child had suffered a subdural hematoma and was unconscious and unresponsive. The reporter stated that the child had been reunified with his mother since July 3, 2007, and the mother's boyfriend (Marcus Clancy) also lived in the home. The reporter stated that the mother had reported that she went to the store and was gone for fifteen minutes. Upon her return from the store, she called out for the child, who did not answer. The mother found him in his bedroom, inside a white plastic laundry hamper. The child was unconscious, he was making gurgling sound, his body was stiff, and his arms and legs were locked (immovable). The reporter stated the child presented with new bruises on the inside of both knees, swelling to both knees, a severe bruise on his left elbow, a bruise on his right rib, a bruise under his left armpit, broken blood vessels on his stomach, and a laceration to the back of his head. Reportedly, the mother's explanation for the bruise on the child's elbow was that the child fell in the shower when her boyfriend was washing him after the child had smeared feces on the wall. Reportedly, Comprehensive Home-Based Services (CHBS) had not been in the home

since the family had moved back to Oklahoma County. The reporter stated that the child had mental and speech disabilities.

The DHS assigned the referral as a Priority I for investigation. At the time of the writing of this public report, the DHS investigation had not been completed.

Referral 9 (August 12, 2007)

The DHS received the ninth referral on the family on August 12, 2007, reporting the five-year-old child had died from a skull fracture (subdural hematoma). Reportedly, at the time of the child's death, he was in DHS custody, living with his mother and her boyfriend, in trial reunification.

The DHS screened out the referral as a duplicate and linked it to the referral received on August 11, 2007.

On August 30, 2007, a First Degree Murder charge was filed against the mother's boyfriend (Marcus Clancy).