

# Records

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By not declaring its involvement in the Dye case as a fatality investigation and instead referring to it as a "neglect investigation," the Cabinet would later claim it did not have to investigate social workers' role in Dye's death or release any related records.

Garrett Dye, Amy's adoptive brother, admitted last month during a guilty plea to beating her to death with a hydraulic jack handle. He is set to be sentenced on Nov. 23 and could receive 50 years in prison.

In an Aug. 11 document in the state's Amy Dye file that was turned over to the Standard, Gill explained further the scope of a "neglect investigation" in a document called a "Continuous Quality Assessment."

Records show the "investigation was not accepted as a child fatality investigation by (the Department for Community Based Services) Centralized Intake and Regional office staff due to the fact that this was a child on child incident as related to the injury and murder of Amy by her brother."

(For more on child-on-child incident reporting and the upcoming state General Assembly, see our sidebar starting on Page 1.)

Gill goes on to write that "it was accepted as a neglect investigation against (Kim and Chris Dye, Amy's adoptive parents) on the allegations reported" in an investigative form. The report also said Gill was instructed to assist the Kentucky State Police with the criminal investigation, to share

records and to collaborate.

That was a far cry from what was being officially said in Frankfort during that same time shortly after Amy Dye's death.

Officials with the Cabinet delayed nearly two weeks — violating Open Records laws — before even responding to the Standard's initial request for records. Then when the Standard received a response, it was told there were no files whatsoever on Amy Dye.

The state Attorney General's office was also later told there were not any files on Amy Dye because she was not in the state's care and she was killed by a sibling, not a parent, so there was no requirement for the state to investigate. It was August before Cabinet attorneys would even admit to a judge the files existed.

A record request denial letter sent to the Standard by the Cabinet and written by General Council Christina

Heavrin on March 23 said the "Cabinet had no records concerning Amy Dye's fatality ... since it is not alleged that the individual involved in Ms. Dye's death was a parent, guardian or person exercising custodial control or supervision ... it is not within the Cabinet's authority to investigate it."

A circuit judge in Franklin County (Frankfort) blasted the cabinet in a decision last week for its handling of Amy Dye's case.

The judge said that the cabinet failed Amy Dye and that its handling of her situation was a tragic example of the "potentially deadly consequences of a child welfare system that has completely insulated itself from meaningful public scrutiny."

Franklin Circuit Judge Phillip J. Shepherd said in his decision to release the Cabinet's files to the Standard that the court rejects the "Cabinet's argument that the

records are exempt from disclosure because (Amy) Dye was not in the Cabinet's 'custody and care' and because her death was not the result of 'abuse or neglect' by a parent, guardian, or person exercising custodial control or supervision of her."

Shepherd said that while records related to child abuse and neglect are usually exempt from disclosure, clear exceptions apply in Amy Dye's case under state and federal law.

"The Court must note for the record that the Cabinet's claim that (Amy) Dye was never in its custody and care is highly misleading ... (and) there is not a question that the Cabinet had prior involvement with the child or family" under state law, Shepherd said in his opinion last week. "The fact is (Amy) Dye was placed in the home of the people who abused her, one of whom ultimately murdered her, only with the approval by the Cabinet."

Shepherd said social services' argument that Amy Dye's death had to be the result of parental abuse or neglect before a fatality investigation could be performed — and eventually made public — is not the final resolution of the matter.

"To be clear, a parent need not personally administer the fatal blow in order to be held responsible for 'abuse and neglect' under (state law)," Shepherd said in the decision, "if the parent places the child in danger and neglects to protect the child from on going physical or emotional abuse by a sibling or anyone else."

Shepherd said there is no question that the failure to protect Amy Dye constitutes child neglect at a minimum and that the Open Records Act "is the only method available by which the public and the legislature can obtain information regarding the systemic breakdown of our child protective services that contributed so directly to this child's death."

Jeremy Rogers, the Louisville attorney who represented the Todd County Standard in its lawsuit against the Cabinet, said it seems as though state employees were trying their best to keep the records of Amy Dye's abuse and eventual death from seeing the light of day.

"The Cabinet's investigation records pretty clearly show a cover-up," he said. "The cabinet made a deliberate attempt to avoid public accountability under the Open Records Act, and that is extremely disturbing."

The neglect investigation the Cabinet conducted resulted in a letter given to Chris Dye concerning an incident determined by social services to be neglect. The letter said that Chris had left Amy alone in a hotel parking lot with a packed bag in Clarksville, Tenn., in order to "teach a lesson."

The Aug. 11 letter said Chris Dye may be denied certain "rights and privileges" such as foster parenting, adoption or certain types of employment.

According to the files, the letter to Chris Dye is the only action taken by the state against anyone in the Dye family to date.

When contacted by the Standard Nov. 15, a Cabinet spokeswoman gave a similar answer as during the Dye investigation regarding how the state now determines a fatality investigation, by saying neglect or abuse has to be perpetrated by a caregiver.

"As required by statute, (the state) conducts investigations into reported cases of suspected neglect and/or abuse, either of which may result in a fatality," Jill Midkiff, executive director of the Office of Communications for the Cabinet for Health and Family Services, said in an email. "By statute, a fatality investigation is conducted by (the state) when it is alleged that a fatality is the result of abuse or neglect by the caregiver."

## Open

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Dye in the home where she was murdered by her adopted brother.

Tilly, who is also the House Judiciary Committee Chairman and a Hopkinsville attorney, told the Standard in an interview Tuesday that he believes past efforts to open some records in the cabinet that failed may resurface in the upcoming General Assembly.

Tilly said he wanted to spend time looking at the Dye case and the deficiencies found to see if there were a gap, hole or inconsistency in the law when it comes to how the Cabinet for Health and Family Services deals with reports in general and reports of child-on-child violence in particular.

"I don't think there is any way you can put this at the feet of the law," Tilly said. "I think the law would have provided protection for that child."

Tilly said he didn't see any exemption in the law for sibling-on-sibling violence.

"Assault is assault. Battery

is battery and murder is murder," he said. "And in the Dye case I think it was a complete systematic failure."

Tilley said the General Assembly only makes policy and sets the law, but he said there are watchdog committees that can deal with the issue.

"It certainly seems that (the General Assembly) should investigate what happened and are entitled to an answer from the Cabinet as to how and why this happened and how we can make sure it never happens again," Tilley said.

The Cabinet is part of the executive branch and directly under Gov. Steve Beshear.

Tilley said the General Assembly has considered on two separate occasions in the last few years bills which would have given more public scrutiny to the cabinet and the files but the bills were defeated under pressure from the cabinet.

"I understand there are some legitimate privacy concerns, but in the Dye case there should have been a death investigation and there is no privacy at that point," he said. "I think public scrutiny could have prevented this tragedy."

## Letter

Continued from Page 1

rumors and lies on, where they don't even have to leave their names. This website has destroyed my life and whoever it was that posted those things on there about me, I ask myself every single day how can we live in such an evil world and how can people believe anything they read?

I do not own a computer, I have never owned a computer and I never want to!

This website — Todd County Topix — has ruined my life and my husband's.

**A Todd County Devastated resident**

**Editor's Note:** The website [www.topix.com](http://www.topix.com) has often been maligned for its libelous statements, rumors and gossip that would not be allowed in reputable publications and websites. It also can be damaging, as this letter showed. We rarely print anonymous letters, but made an exception in this case since the person has already had an abundance of embarrassment.

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