

ADVOCATING FOR REUNIFICATION DURING THE FIRST STAGES OF DEPENDENCY

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**“WE ARE LOOKING FOR PASSING GRADES HERE,
NOT STRAIGHT A’s.”**

David B. v. Superior Court (Orange County Social Services Agency)
(2004)123 Cal.App.4th 768, 790

STARTING POINT: THE LAW

FRAMING THE ISSUES

- This training is training to the gold standard every family deserves.
- Keep in mind there may be practical or systemic reasons why some practice tips may not work right now for your practice.
- Some practice tips may be goals to work towards – right now or in the future when timing, circumstances and/or funding make them more possible.
- Recognize dependency practice is hard work that is constantly evolving.

01

Children grow up best with their parents.

02

Nearly every child wants to be with their parent.

03

If a child cannot be safely placed with a parent initially, we should begin planning for reunification immediately.

**PRESUMPTIONS OF ALL DEPENDENCY ATTORNEYS
AND THE COURT**

DETENTION HEARINGS



PREPARING CLIENTS



IN COURT ADVOCACY

PREPARING CLIENTS FOR DETENTION HEARING

Importance of establishing rapport.

- Setting expectations for the hearing
- Explaining your role

Unique challenges when meeting clients remotely and preparing clients for remote hearings

https://www.americanbar.org/content/dam/aba/administrative/child_law/conducting-remote-hearings.pdf



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COMMUNICATING WITH THE MINOR CLIENT

- Each child is unique.
- A client is a client is a client, regardless of age.
- Find the best meeting milieu: If meeting in person, find a private, quiet space. If child is not brought to court, phone or virtual platform may not work to establish rapport for all clients.
- Opening Questions:
 - what questions do you have?
 - do you know why you are here today?
 - what would make you feel safe at home?
 - do you want to attend court?
- Listen.
- Explain your role as the child's attorney.
- Be realistic about what you can and cannot do and about what you know and do not know.
- Emphasize that it is the judge that will make the decision.



PREPARING CLIENTS FOR DETENTION HEARING

PLACEMENT

- Talking to family, friends, community members
- ICWA considerations
- If not available for placement, how else could they be supportive of return to parent?

VISITATION

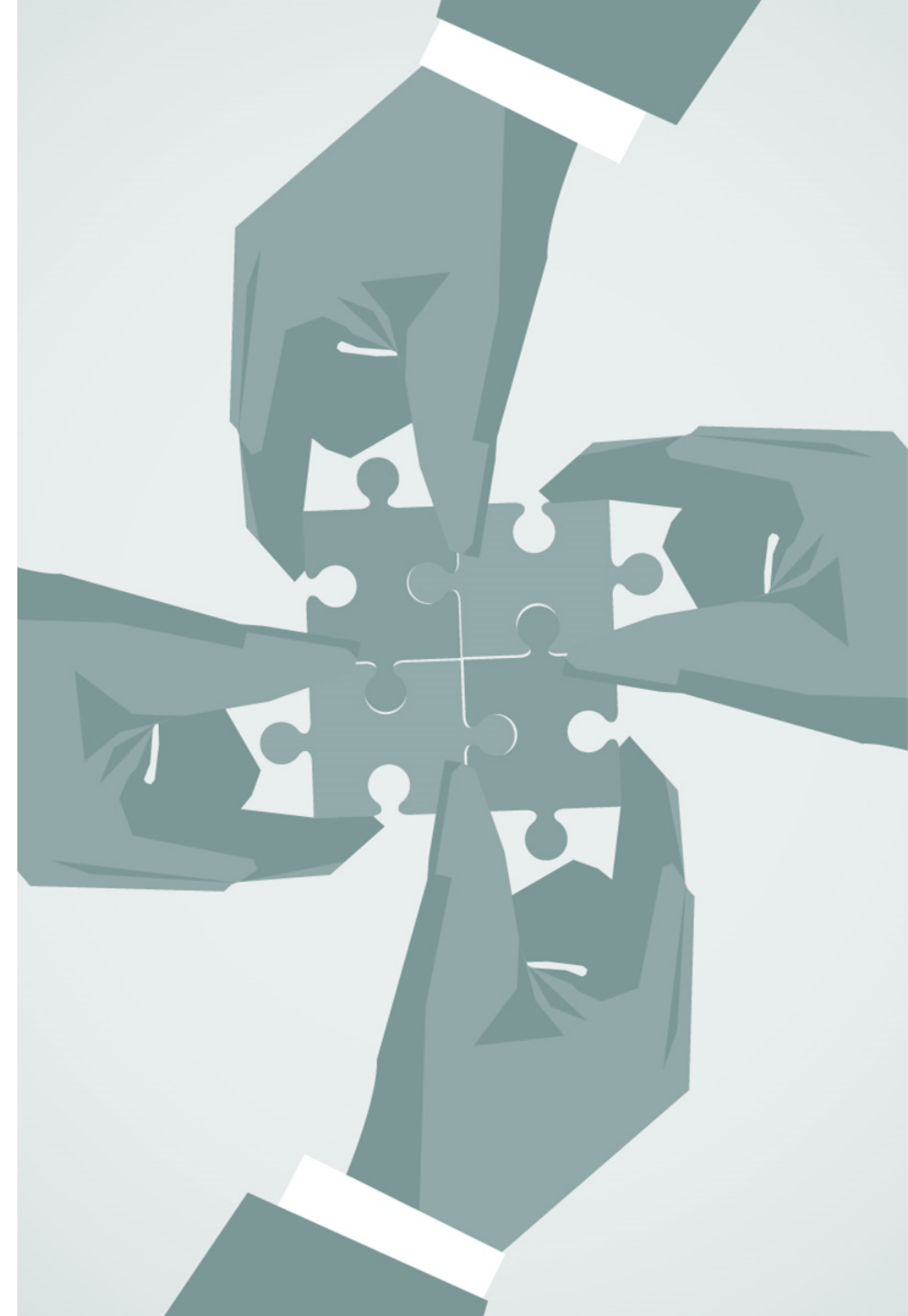
- How to utilize family or community to expand visitation?
- Ability to do parenting time in more natural setting
- Virtual parenting time as SUPPLEMENT to in-person parenting time

SERVICES

- While not court ordered, encouraging parents to voluntarily participate in services
- Utilizing mentor parents and/or in-house social worker to engage parents early on

COLLABORATING WITH OTHER COUNSEL AND IN COURT ADVOCACY

- Minor's Counsel: Ask – what does the child need to happen for child to be safe with a parent?
- Parent's Counsel: Ask your client – can you do this (ex. get a TRO, live with a relative, enter residential tx) to demonstrate your child will be safe with you?
- Brainstorm with other counsel, social workers, family members, the child, investigators to identify ways the child can be safe with a parent. If applicable, what didn't work in the voluntary, pre-court involvement services and why didn't it work? Has anything changed? Could something change to support the child being safe with the parent?
- Hold the Agency to their burden to prove **Reasonable Efforts** were made to prevent removal.
- Contest the out-of-home detention recommendation



IF THE CHILD IS NOT DETAINED WITH A PARENT AT DETENTION, WHAT TO DO NEXT:

- Ask for an ORDER to release the child to a parent if certain conditions are met before the Jurisdiction/ Disposition Hearing.
- Ask for DISCRETIONS to place with a parent.
- Ask for a Child Family Team (CFT) Meeting
- Identify family members or NREFMs who can support the child's return to the parent, supervise visitation and support the family. Ask for court orders that these persons be evaluated for placement and/or to supervise visitation.



BETWEEN DETENTION AND
JURISDICTION/
DISPOSITION

THE ROLE OF THE
ATTORNEY

PROVIDE CLEAR
EXPLANATIONS
TO CLIENTS AFTER
THE HEARING

COMMUNICATE
NEXT STEPS

DEVELOP
MATERIALS FOR
CLIENTS

CHECK IN ON
STATUS OF
PLACEMENT,
SERVICES, VISITS

CHILD FAMILY
TEAM MEETINGS

PROACTIVE ADVOCACY

PLACEMENT

➤ Statutory Preferences

- 1) Custodial parent (conditional orders, discretions)
- 2) Non-custodial parent
- 3) Approved Relative or NREFM
- 4) Licensed foster home, San Pasqual Academy
- 5) Group home (now called STRTPS- Short-term residential therapeutic program)
*remember if the ICWA applies, higher burden to remove and Native foster families must be explored

➤ Relative Family Approval (RFA)

➤ No wiggle room with non-exemptible crimes.

➤ Court-specified placement without Agency approval: placement will NEVER get funding.

➤ If placement is not resolved, preserve the issue.





VISITATION

- If visitation is still supervised, WHY hasn't it progressed to unsupervised?
- If visitation is still supervised, follow up on the WHO, the HOW and the WHERE from detention:
 - WHO: Who is visiting? Parent-child; siblings; incarcerated parent; relatives-child
Who is supervising? Have all potential supervisors been explored?
 - HOW: Virtual visitation
 - WHERE: Get creative and plan for visits beyond the usual visits. Examples: school activities, medical appointments and procedures, holiday celebrations, family events such as weddings and funerals, religious services and cultural events



SERVICES

- Ensure that services are individually tailored to the family's needs
- Prioritize / stagger services
- A parent not completing services **DOES NOT** equal basis of removal or detrimental to return finding

POST JURISDICTION
/ DISPOSITION:
CONTINUING OUT
OF COURT ADVOCACY

EX PARTES

388s

CFTs

COMMUNICATING



ALWAYS REMEMBER OUR MANDATE

The parents who come through the dependency system are more in need of help than most. If we are lucky, they are parents who can learn to overcome the problems which landed their children in the system, and who can demonstrate the dedication and ability to provide for their children`s needs in an appropriate manner. They will not turn into superstars, and they will not win the lottery and move into a beachfront condo two blocks from a perfect school.

This is a hard fact to accept. We are dealing, after all, with children, and the dedicated people who work so hard to help these families are understandably desirous of providing those children with the best possible circumstances in which to grow up. But there are times when we have to take a step back and make sure that we are not losing sight of our mandate. We are looking for passing grades here, not straight A`s.

CONTACT INFORMATION

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