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## **A Cornerstone Approach to Moving Child Protective Cases: Small Adjustments for Judges and Practitioners to Consider**

This memo is based on an approach to child protective cases that we take at the Center for Family Representation (CFR) when representing parents in Article 10 and TPR cases in Queens and Manhattan, where we are the primary indigent defense provider—We call it the “Cornerstone” approach because we think it is *foundational* to safe and expeditious reunification and we gave it a name because it makes us more intentional about the approach. It represents our experience working with more than 6500 parents since 2007. We believe it is an approach that can be adopted by every stakeholder in the system, including judges, and believe it has been instrumental in the following ways:

- Our clients’ children spend less time in foster care and re-enter foster care less often than other children similarly situated in both the City and the State
- We achieve more ACD’s (Adjournment in Contemplation of Dismissal, i.e. no adjudication), than was the case prior to 2007 and those are granted in situations where the Court no longer sees the need for parents to have involvement in court—many of the ACD’s we achieve are for less than six months
- It keeps cases progressing—and we end up litigating only those issues that require litigation as the only means to resolve an issue
- Very important, we think it is an approach that more accurately ends up distinguishing those parents who can safely reunify with their

children in the time frames afforded to them under federal law—our permanency results are not ‘lesser evil’ scenarios, but hopefully and instead scenarios where parents have had *meaningful* opportunities to reunify.

- Perhaps most important, a focus on the Cornerstones gives parents the chance to demonstrate that there is far more to their story and their parenting than what is contained in the allegations. Strengths are illuminated in a meaningful way. Visiting in particular enables parents to continue to play a positive role in their children’s lives, which in turn motivates them to stay involved in services.

One of the struggles that everyone in the child welfare context experiences is that it is difficult to practice in a way that reflects the unique strengths and needs of every family—very often, because of limited time and resources, families are treated like “cases,” and if parents face the same allegations, they are prescribed the same service plan. And they are viewed the same way, and the same assumptions are made about them.

We encourage everyone in the system to fight against this dynamic—and believe that focusing on the four cornerstones (visiting, placement, outside conferences, services) helps us do so. We also believe each practitioner can make ‘small adjustments’ to focus on these—things that are not time consuming, nor expensive.

### **Placement:**

- Ask about/brainstorm way to support the child’s (and parent’s) attachments: Who and what resources are available that can continue to work with a child. (i.e. daycare, school, doctors, early intervention providers, therapists) *Next Actions: when reviewing a petition, ‘inventory’ who those people might be;*
- Ask parents about services/resources that have been helpful to the child; \*\* Use parents as a resource—they have a great deal of

information and too often the system treats them as though they no longer have anything to offer their children; they do better when engaged in their children's care, even if only to provide some advice on some issues. —*Next Actions: if you have an interview checklist (written or just in your head) , add a question about other supports, adults involved with the parent, not just family; if you represent children, ask to speak with the parent about this;*

- Regulations provide that “kin” can be people not related to the child by blood but people who have a relationship with the child-- Access these people: sometimes neighbors, god parents, etc, can be placement resources; *Next Actions: copy the reg and carry copies with you for a few weeks;*
- When reviewing a petition, ‘inventory’ potential placement resources and supports; *Next Actions: make a point of asking a case planner at arraignment who these people are; \*\*ask that these people be included in conferences if you identify them and the client consents*

### **Services:**

- Parenting skills courses: think critically about them and ask what the services in a particular class will be prior to making a referral—ask WHY this particular parenting program is deemed appropriate for this particular parent—too often the referral is formulaic and the program does not match the parents strengths or needs well; *Next Action: invite a staff person from a parenting class to a brown bag lunch at your office;*
- Ask: What are this parent's strengths? *Next Action: add this to your checklist of items you'll ask the case planner when you meet*

*him/her; if you are a case planner, add 'parents strengths' to your court report template;*

- Ask: are services duplicative or potentially unnecessary, at least at this particular time? Is the service plan burdensome? *Next Action: ask a case planner to explain day by day exactly how/when/where the parent can accomplish these things; help your parent client make a calendar or checklist; ask a service provider to provide a short letter to the court regarding what will be covered, for example, in therapy;*

### **Visiting:**

- Ask WHY regarding visiting plans: Why exactly is supervision necessary? Why at this level? When can it change? *\*\*Is the visiting plan treating all the children as similarly situated when perhaps they are not? Next Actions: ask that court reports include specific reasons for supervision; ask about visiting at every court appearance; ask: when will visits become unsupervised?*
- Try to identify a visit host in appropriate cases: *Next actions: add to your standard questions of young people and parents those that will help identify a visit host; ask the agency to 'explore and report' if you identify a particular visit host; read the NYC guidelines (or assign an intern to do this) and list the people who might help develop similar guidelines if necessary;*
- Surface philosophical and professional development issues pertaining to visiting—do we think increased visiting should be a reward for compliance with a service plan? Are we formulaic in our approach to visit plans? Do we need additional training? *Next Action: set up a meeting to begin discussing this;*

- Think about developmental needs of the client in supporting attachment to parents
- Raise the visitation issue in court: one hour/once a week = only 2 days per year—argue this is not enough; if the county says it does not have the staffing to provide more visits, and you can identify a visit host, ask that person to be explored;
- Ask if the kids/youth can talk on the phone with their parents; think about whether or not older kids and parents can exchange cell phone numbers or whether a parent can give a child a pre-paid phone
- Think about what you can do to insure:
  - As frequent visitation as possible
  - Least amount of supervision necessary
  - Visitation centered around activities that mimic family-like activities (i.e. haircuts, doctor visits, school conferences, festivals, picnics, sporting events)
  - Ask a SW or legal intern to research free community events in your area
- Ask kids what they would like to do on a visit; ask parents—can't make promises, but can ask
- ASK: at our particular agency or within our particular practice, could we benefit from additional training on how to interview parents and children about visiting? So that we can feel more comfortable with “hard” conversations, but also get more information so we can be more creative? *Next Action: schedule a meeting to discuss this and whether we'd like help in doing this;*
- ASK: if you represent the county/social services/foster care agency: do we need any additional training in how to talk with caseworkers who are OUR clients about these issues? how do we

view the 'client counseling' role in this regard? Do we see ourselves as ethically (and from a knowledge standpoint) able to talk about these issues with them? What skills do we need to do that? Do we even see this as part of our role, or are we mainly here to prosecute the case? (no right answers, and often about resources); *Next action: schedule a meeting to discuss this; make a list of who you'd invite on your way home;*

### **Conferences:**

- Family team decision making or other conferencing scheme: find out if it is in your county and how it works; *Next Action: assign an intern to do this if you can't;*
- Find out whether or not there will be any conferences/meetings to which you will be invited to attend. Can attorneys attend? *Next Actions: If parents/youth identify any prior service provider as helpful, ask that provider to be included—common sense: people who know the family have a lot to add*
- Ask youth/clients if there is someone whom they want to bring to the conference to support them. Find out whom they trust. Support parents in bringing someone they trust to the conference. *Next Actions: add a question about conference supports to your interview lists;*
- Ask the court to direct that supports to youth and parents be specifically invited to the conferences; (admit this can be unwieldy so those working with parents in particular have to try and assess if the person will be able to engage productively); *Next Action: turn to the judge sitting at your table and tell them you are going to make this application in court tomorrow;*

- Attend conferences where you are allowed to come, request to be invited. If the department does not invite you, seek a court order *with meaningful notice to you about the scheduled time*; *Next Action: draft a short form boilerplate order to get signed each time and provide it to the case planner*;
- Cast a wide net at conferences—not everyone who knows the family or cares about the children can be a foster parent or visiting resource, but they may have a lot to add and provide additional resources and ideas for you....they may also ultimately prove to later be in a position to be caretakers, or for older children, the “significant adult” ....
- Make applications/seek orders so that you receive reports of conferences and service plans--
- In DV cases, seek separate conferences for the father and the mother and separate visiting plans

### **Generally:**

- Schedule quarterly meetings to discuss any one or all of the Cornerstones—lunch meetings, etc., not necessarily ‘extra’ meetings, just put a Cornerstone discussion on your agenda within your own agency; OR within your court house—if the latter, make sure to invite child welfare people too, not just attorneys, as Cornerstone issues straddle both systems.....whenever possible, serve food—it always improves attendance (!) *Next Action: Send around a sign up sheet TODAY or at your next large ‘stakeholder’ or court improvement meeting just asking who would like to be involved in more targeted work on any/all of the Cornerstones.....things get done, even if slowly,*

*when you start with the people who feel energized (and it is okay if you don't).....*

- On the other hand, often good to start informally—if you know five people (judge, attorney, advocate, case worker, CASA) that thinks like you do and you want to advance any/all of these, have an informal lunch, coffee, first. Brainstorm about how to proceed next and who else to include;
- Start small if you can: ask your CIP liason (!) or supervising judge about piloting something—in a part, in a particular group of cases, etc.*Next Action:—ask for TA help; if you want to work on something, ask your CIP liason to handle scheduling.....*many great ideas die on the vine not because we don't have time to meet, but simply because most of us don't have people to handle coordination and scheduling of meetings.
- Don't reinvent any wheels.....i.e. if you like the idea of developing Visit Host Guidelines in your county, start with those developed by ACS in NYC.....they were the result of more than two years of collaboration between court personnel, child protective and foster care personnel, parent and youth reps, all members of the advocacy and legal community, and focus groups.
- Use a regulation to call a caseworker and let them know they can do something they think they can't; do the same with a policy directive
- Specify that you want a Family Services Plan in the proposed order of discovery if you are representing parents or children; create routines in the court conferencing process to all look at /discuss these together. Note that SSL 409 a-f *require* that children's and parents' attorneys receive service plans via mail within 10 days of completion.



- Advocates: Always consider short orders to advance a Cornerstone.....they create a blueprint, avoid delay, and keep things on top of the pile (but appreciate that a county attorney may feel compelled to object to an order against an agency)
- Assign interns, whenever available, to do the work we can't find time for: outline of applicable regs, compendium of applicable policy directives, collecting research on parent engagement, support for children, visiting outcomes; free community resources for families, write sample papers to enhance visiting, gather Cornerstone resources from other states to serve as jumping off point (i.e. PA has written a visiting handbook, the ABA has numerous resources on its website from a variety of states, MI has a foster care manual that addresses many of the Cornerstone issues, while not of course naming them that way)—build on the work and ideas of others.....it always saves time. Let the intern 'present' on what they found to your staff/at a meeting; good for their resume and saves you time
- Make a **common sense argument**—for example, if a single therapist can help a parent with anger management and parenting issues, argue that a parent should not have to attend three distinct programs (therapy, anger management and parenting) and that a parent will do better if not be pulled in so many directions
- Learn a regulation! Show and Tell works best with a regulation—once you show it to parties and judge or referee once, you may not have to again.....keep copies of regs you like in your briefcase; case file. Learn a policy directive or guideline.....also Show and Tell and keep copies with you if you find it helpful in

moving a case along—*Next Action: ask a summer intern to catalogue any Cornerstone regs;*

- Gather with like minded people to identify a ‘bite size’ goal to further Cornerstone Advocacy (or just one Cornerstone) in your jurisdiction; *Next Action: on the ride home, make the list; send an email to someone with formal (or informal) authority who will host a first meeting; brainstorm about how to serve food.....*
- **Develop your own REASONABLE EFFORTS scripts:**
  - Conferences:** “Your honor, permitting my client to bring her pastor to the agency conference will enable her to participate more productively and fulfill the agency’s own objectives, as per its policy, to include community supports in developing a service plan...including the pastor should be seen as a reasonable effort in support of reunification”
  - Visits:** “Your honor, my client’s child is only two years old....the agency’s current plan only permits her to visit once per week for two hours....this amounts to essentially four days a year—that should not be viewed as a reasonable effort in support of reunification given this child’s developmental needs”...*alternatively...* “your Honor, the statutes, regulations and state policy around visiting all suggest that a parent should have as many visits as possible and that visits should be organized around activities that mimic family life (be prepared to SHOW and TELL those policies, etc)...if the agency can not provide resources for more visits in the community (etc), than a Visit Host should be deemed a ‘reasonable effort ‘ in support of reunification...and we have a Visit Host to propose”

**Services:** “Your honor, requiring my client to attend three services (anger management, parenting, individual therapy) when one will suffice (therapy), should not be viewed as a reasonable effort on the part of the agency...particularly when so many services jeopardizes her ability to attend visits and hold down her part-time job...both of which are critical to reunification---“

**Placement:** “Your honor, applicable statutes, regulations and policy make clear that the preference should always be for a child to remain close to school (day care), friends and community...this is less traumatic for a child and makes it more likely that the child will have fewer transitions when returning home....exploring the god-parent as a placement, particularly when agency regulations make clear that fictive kin should be considered, is a reasonable effort in support of reunification—and the agency’s unwillingness to explore the god-parent should be seen as a failure to exercise reasonable efforts”

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