

**ADVOCATING FOR  
REUNIFICATION  
DURING THE FIRST  
90 DAYS OF  
DEPENDENCY**



Berta Zangari, JD, CWLS  
Karen Prosek, JD, MSW, CWLS

---

---

---

---

---

---

---

---

1

**“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**

---

---

---

---

---

---

---

---

2

**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.

---

---

---

---

---

---

---

---

3

## 01

Nearly every children grows up best and wants to be with their parents.

## 02

Most parents involved in dependency love their children and want to be the best parents they can be.

## 03

If a child cannot be safely placed with a parent immediately, we should frequently reassess visitation and placement.

### PRESUMPTIONS OF ALL DEPENDENCY ATTORNEYS AND THE COURT

4

---

---

---

---

---

---

---

---

### SHARED GOALS OF DEPENDENCY ATTORNEYS AND THE COURT

- The reasonable efforts requirement is meant to ensure children remain with or return to their parents when it is safe.
- The reasonable efforts requirement further ensures steps are taken to make the parent's home safe for the child to return at the earliest opportunity.
- Prevent the unnecessary disruption of families.
- Reasonable efforts and reasonable services means due process for everyone
- Ensure that every child has a permanent home

5

---

---

---

---

---

---

---

---

### DETENTION HEARINGS



PREPARING CLIENTS



IN COURT ADVOCACY

6

---

---

---

---

---

---

---

---

## COMMUNICATING WITH THE PARENT CLIENT

- Explain the process to them, the first hearing and future hearings
- Include the timelines and the risk of TPR
- Explain what services are and their importance in reunification
- Ask about relatives for placement and visitation
- Welf. & Inst. Code section 309(e) requires the agency to search for and inform relatives about the proceedings and how to **assist** in the first thirty days of the case
  - Relative assistance is not limited to accepting placement
  - Explain the importance of visitation

7

---

---

---

---

---

---

---

---

## 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.



8

---

---

---

---

---

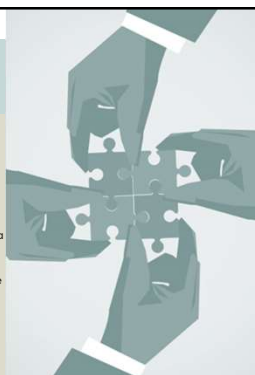
---

---

---

## 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



9

---

---

---

---

---

---

---

---

## WELF. & INST. CODE SECTION 322 WHAT A DIFFERENCE 1 DAY MAY MAKE...

- Time to explore options where the children can remain detained with a parent if not yet removed or if removed, explore options where children can be detained with parent
- Time to clean an unsanitary home
- Time for one parent to make alternate housing arrangements
- Time for a relative to fly in to move in with the parent to be part of a safety plan
- Enter residential treatment where a parent can reside with their child/ren
- Time to clear a relative through ERFA
- Gather documentary evidence and prepare witnesses for contested Detention or for 309(d)(3) and 319(b)(3) arguments

10

---

---

---

---

---

---

---

---

## WELF. & INST. CODE SECTION 309

- (d)(3): If the sole issue preventing an emergency placement of a child with a relative or nonrelative extended family member is a lack of resources, including, but not limited to, physical items such as cribs and car seats, the agency shall use reasonable efforts to assist the relative or nonrelative extended family member in obtaining the necessary items within existing available resources. The department shall work with counties and stakeholders to issue guidance regarding reasonable efforts requirements.

11

---

---

---

---

---

---

---

---

## WELF. & INST. CODE SECTION 319

- (h)(3) When placing in the home of a relative, an extended family member, as defined in Section 224.1 and Section 1903 of the federal Indian Child Welfare Act of 1978, or nonrelative extended family member, the court shall consider the recommendations of the social worker based on the assessment pursuant to Section 361.4 of the home of the relative, extended family member, or nonrelative extended family member, including the results of a criminal records check and prior child abuse allegations, if any, before ordering that the child be placed with a relative or nonrelative extended family member. The court may authorize the placement of a child on temporary basis in the home of a relative, regardless of the status of any criminal record exemption or resource family approval, if the court finds that the placement does not pose a risk to the health and safety of the child. The court shall order the parent to disclose to the social worker the names, residences, and any known identifying information of any maternal or paternal relatives of the child. The social worker shall initiate the assessment pursuant to Section 361.3 of any relative to be considered for continuing placement

12

---

---

---

---

---

---

---

---

## 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.
- Ask for voluntary services for your client.

13

---

---

---

---

---

---

---

---

## BETWEEN DETENTION AND JURISDICTION/ DISPOSITION

THE ROLE OF THE ATTORNEY

14

---

---

---

---

---

---

---

---

## THE CASE PLAN AND SERVICES

- Ensure that services are individually tailored to the family's needs
- What is the harm that removal is designed to prevent?
- What services will address the harm/risk?
- Prioritize / stagger services
- When reviewing a parent's progress in services, look for progress and harm reduction, not completion, to assess changes in visitation or return.

15

---

---

---

---

---

---

---

---

### KNOW THE SERVICES IN YOUR COMMUNITY

Substance Abuse Treatment	Sexual Abuse Treatment
Methadone Maintenance	Child Abuse Treatment
Domestic Violence Counseling	211.org
Parenting: Education & Coaching	Food Banks
Parent Child Interaction Therapy	Transportation
Therapy: Individual, Conjoint	Libraries
Psychotropic medication prescriptions and monitoring	Child Care Resources

16

---

---

---

---

---

---

---

---

### INCLUDE YOUR CLIENT IN DIRECTING SERVICES

- Ask them what they see as the harm or risk of harm
- How do they think it needs to be solved
- Advise them of how the court may see it, and what the court may ask
- Listen, actively listen
- Come to a conclusion with the client of what the case plan you request will look like
- The goal is a case plan needed for the individual client to reunify and not the standard list and to make sure needed services are not missed

17

---

---

---

---

---

---

---

---

### GIVE THE PARENT DOCUMENTS FOR SUCCESS

OPEN  
LETTER  
TO  
CLIENTS

LOG  
FOR  
VISITS  
WITH  
CHILD

CLIENT  
SERVICES  
DOCUMENT

18

---

---

---


---

---

---

---

---



## 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

19

---

---

---

---

---

---

---

---

## VISITATION

### The Most Important Service on the Case Plan

- Length
- Frequency: ask the court to set a minimum, consider the child's age
- Location: in the parent's home or the foster home, where ever possible or a setting that is homelike,
- Use the visits to involve the parent in medical appointments, school meetings, family therapy, or homework
- Provide hands on care for the child, such as feeding, bathing or putting the child to bed
- Who should be at the visits
- If visits have to be supervised, who can best supervise
- Modified unsupervised

20

---

---

---

---

---

---

---

---

## VISITATION AND TALKING TO THE CLIENT

- Explain to the parents the importance of visitation
- Make sure the client understands that it is not just a visit, it is their time to PARENT
- Bring a diaper bag
- Bring food, remember they are under a microscope, make sandwiches don't buy fast food
- Raisins and apples, not candy
- Put the cell phone away (unless you are taking family photos!)
- Bring something to do, ask if the child can bring their homework find books at their reading level, find a way to engage in their education
- Ask kids where they want to visit and what they want to do with their parent

21

---

---

---

---

---

---

---

---

## PARENTING FROM JAIL

- Read books to audible recording
- Photos
- Visitation for in custody parents
- Phone cards or collect call reimbursement
- Booklets such as the Inside Out Dad from Fatherhood.org
- Prepare kids to visit a parent in jail

22

---

---

---

---

---

---

---

---

## OTHER UNIQUE VISITATION SITUATIONS

The out-of-state parent: apps, apps, apps

The out-of-country parent: apps, Consulate office, get the child a passport

23

---

---

---

---

---

---

---

---

## FOLLOW UP BETWEEN DISPOSITION AND THE 366.21(E) HEARING IS CRITICAL

- Check in with the client at 2 months and 4 months (gold standard)
- Utilize interns, in house social workers and support staff to assist
- Encourage the client to maintain their own records
- Ask for those logs, get the copies
- Get 12 step meeting signatures
- Get letters from services providers, not just those on the case plan

24

---

---

---

---

---

---

---

---



## RESOURCES

Publication: Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know

[http://www.americanbar.org/content/dam/aba/administrative/child\\_law/visitation\\_brief.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/child_law/visitation_brief.authcheckdam.pdf)

Child Information Gateway: Supporting Parent-Child Visitation Articles

<https://www.childwelfare.gov/topics/outofhome/casework/parentvisits/>

25

---

---

---

---

---

---

---

---

## POST JURISDICTION/ DISPOSITION THROUGH THE END OF THE CASE

YOUR ADVOCACY  
CONTINUES  
IN AND OUT OF COURT

26

---

---

---

---

---

---

---

---

PROVIDE CLEAR  
EXPLANATIONS  
TO CLIENTS AFTER  
THE HEARING

COMMUNICATE  
NEXT STEPS

CHECK-IN WITH  
PARENTS ON  
THEIR LOG  
KEEPING

CHECK IN ON  
STATUS OF  
PLACEMENT,  
SERVICES, VISITS

CHILD FAMILY  
TEAM MEETINGS

CHECK-IN WITH  
CHILDREN AND YOUTH  
ABOUT VISITS WITH  
PARENTS, SIBLINGS  
AND RELATIVES

27

---

---

---

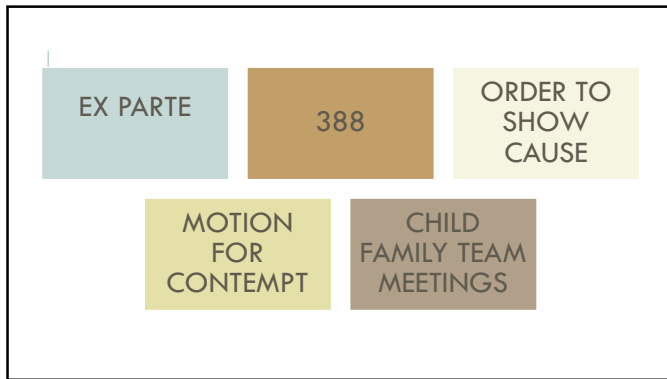
---

---

---

---

---



28

---

---

---

---

---

---

---

**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.

David B. v. Superior Court (Orange County Social Services Agency) (2004) 123 Cal.App.4th 768, 790 - 791

29

---

---

---

---

---

---

---

**CONTACT INFORMATION**

<p><b>KAREN PROSEK</b>          Director of Legal Services          Children's Legal Services of San Diego          Ph: 858-264-7460          Ph: Email: <a href="mailto:karenp@clssandiego.org">karenp@clssandiego.org</a></p>	<p><b>BERTA ZANGARI</b>          Firm Director          Dependency Legal Services of San Diego          Ph: 619-381-1998          Email: <a href="mailto:zanagarib@dlssd.org">zanagarib@dlssd.org</a></p>
---	---

Children's Legal Services of San Diego

30

---

---

---

---

---

---

---