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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

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**

# 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

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



# 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

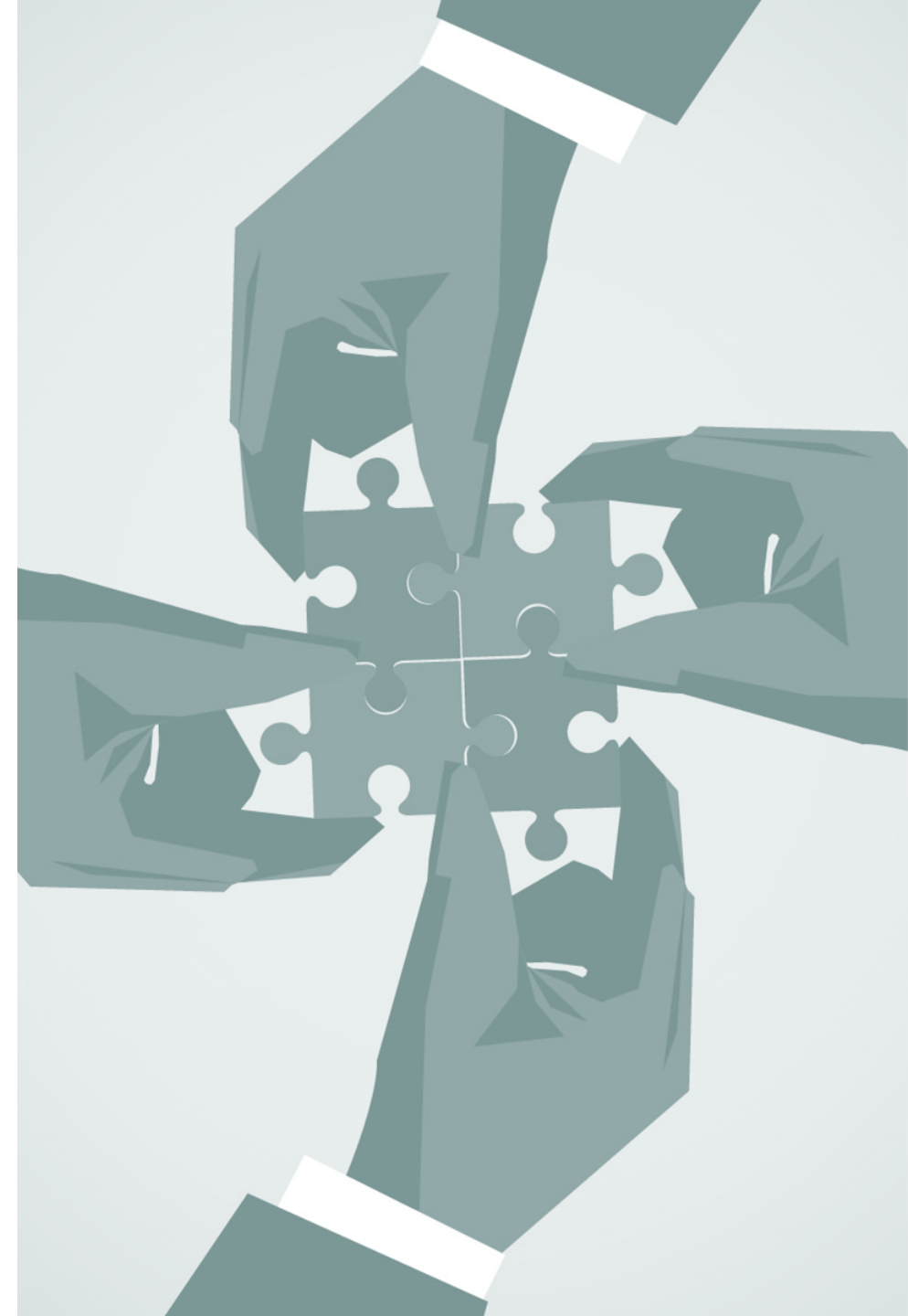
# COMMUNICATING WITH THE MINOR CLIENT

- 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.



# 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



# 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

# 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.



# BETWEEN DETENTION AND JURISDICTION/ DISPOSITION

THE ROLE OF THE  
ATTORNEY

A graphic on the left side of the slide features a light blue circle. Inside the circle, a dark blue silhouette of a family (a man, a woman, and two children) is shown holding hands to form a protective ring. Two larger, dark blue hands are positioned on the left and right sides of the circle, appearing to hold it. The background of the slide is split: the top half is light blue and the bottom half is light yellow.

# 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.

# KNOW THE SERVICES IN YOUR COMMUNITY

Substance Abuse Treatment

Methadone Maintenance

Domestic Violence Counseling

Parenting: Education & Coaching

Parent Child Interaction Therapy

Therapy: Individual, Conjoint

Psychotropic medication  
prescriptions and monitoring

Sexual Abuse Treatment

Child Abuse Treatment

211.org

Food Banks

Transportation

Libraries

Child Care Resources

# 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

# GIVE THE PARENT DOCUMENTS FOR SUCCESS

OPEN  
LETTER  
TO  
CLIENTS

LOG  
FOR  
VISITS  
WITH  
CHILD

CLIENT  
SERVICES  
DOCUMENT



# 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

# 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

## 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

# VISITATION

## CONSIDER THE DEVELOPMENTAL AGE OF CHILD AND INDIVIDUAL NEEDS

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# 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](http://Fatherhood.org)
- Prepare kids to visit a parent in jail

## 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

# 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

# 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/>

POST JURISDICTION/ DISPOSITION  
THROUGH THE END OF THE CASE

YOUR ADVOCACY  
CONTINUES  
IN AND OUT OF COURT

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

EX PARTES

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ORDER TO  
SHOW  
CAUSE

MOTION  
FOR  
CONTEMPT

CHILD  
FAMILY TEAM  
MEETINGS

## 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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