



# Child Law Practice

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Helping Lawyers Help Kids

## IN PRACTICE

### Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families

by Jillian Cohen and Michele Cortese

This article introduces a promising approach to child dependency cases in which a child is placed in foster care. “Cornerstone Advocacy” supports family reunification, when possible, by devoting intensive advocacy during the first 60 days of a case in the following four areas:

- **visiting** arrangements for children and their parents that are as frequent and long as possible, and most closely mimic family life;
- **placement** arrangements that support a child’s connection to family and the people and institutions that the child was connected to before placement in foster care;
- **services** that address a parent and child’s strengths and needs;
- **conferences** and meetings that occur out of court and provide opportunities for parents and older youth to meaningfully participate in their case planning.

Whether you represent parents or children, your legal training likely encouraged you to develop excellent investigatory and litigation skills. However, in practice you are likely to devote those skills to the trial, discovery, and motion practice.

You may not think about the longer-term permanency prospects for the family until after a trial is

complete. Arguably though, the most significant and central question in most dependency cases is not whether or not a parent committed “neglect” but whether and when a child can return home safely. Cornerstone Advocacy attempts to answer this question and bring advocacy skills to bear as soon as possible in every case—because it can take months to reach a trial on the merits and, in most cases, parents want their children home and children wish to return home.<sup>1</sup>

#### About Cornerstone Advocacy

Early, consistent focus on each of the four Cornerstones yields better results for families. Since 2004, the Center for Family Representation (CFR) has brought this approach to more than 600 families in its representation of parents and has achieved reunification at a rate that far outpaces city and state averages—more than 55% of CFR’s clients’ children are not in foster care, and those that are have significantly reduced lengths of stay and far fewer return placements.<sup>2</sup>

#### Benefits

Cornerstone Advocacy does not replace preparing for trial, but if used with equal intensity, it has the following advantages:

- maintains a child’s significant

attachments to parents and family that can reduce the emotional stress for a child in foster care and increases the likelihood that a parent will stay engaged in planning;

- speeds reunification and avoids protracted foster care stays;
- ensures services are tailored to the problem that led to placement, hopefully achieving stability that avoids future child protective involvement;
- makes it easier for practitioners to make accurate, informed decisions about the ultimate permanency question in the case, *whether a family can reunify safely.*

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When you meaningfully pursue the Cornerstones, it is easier to be confident that a goal change to a permanency option other than reunification is appropriate, instead of the result of poor agency casework, delayed and missed opportunities for family connection and healing, overburdened professionals, or inadequate assessments about a family's potential.

### Why 60 Days?

CFR chose the 60-day mark for several reasons:

- The National Council of Juvenile and Family Court Judges chose the 60<sup>th</sup> day as a best practices benchmark for the trial phase of a dependency case to be complete.
- Parents, children, service providers, and other family supports often have an intense sense of urgency about supporting the children and family when the case begins—information is easier to obtain, people are optimistic and hopeful, and neither parents nor children have had the chance to become frustrated and/or resigned to a court or child welfare process that feels slow, formulaic, and without meaning.
- The direction the case takes early on often predicts where the case will go in the long run. So, preserving family connections, maximizing parent engagement, and assuring the right service plan helps direct the case toward reunification early, before the law and a child's new attachments make reunification more difficult to choose and achieve.<sup>3</sup>
- Yet, while Cornerstone Advocacy should begin on day one, it can and should continue throughout the case, regardless of when a trial date is set.

## Incorporating Cornerstone Advocacy

Like most child welfare practitioners, you likely carry a large caseload. You may also lack regular support from social workers or paraprofessionals. The discussions below attempt to share an easily adaptable framework in which to think about Cornerstone Advocacy strategies. They identify “small adjustments” you can make, even in a busy practice, to incorporate Cornerstone Advocacy into your practice so your clients benefit. Each Cornerstone is described, followed by specific advocacy strategies and timeframes for pursuing them in your advocacy routines.

### Visiting

Clinical research reveals three things:

- Meaningful and frequent visiting is the single best predictor of safe and lasting reunification.<sup>4</sup>
- Supporting a child's attachment to his or her parents through visits helps ease the anxiety and confusion that often surrounds foster care because when children can see their parents often and in circumstances that make them comfortable, they can talk with the people they most need to about what has happened—their parents. Children also hear from their parents what will and could happen and are assured that they will see parents and siblings frequently.
- Agency offices, where most visits between parents and their children take place, are some of the worst places to assess family attachments and family functioning.<sup>5</sup>

Visiting is at the heart of parent engagement. If parents are given the chance to still perform the parenting role, it enables them to continue the relationship with their children and inspires them to keep working on getting them home. Quality visiting can help children preserve cherished rituals, share stories from school and

social life, and continue to seek advice and encouragement from their parents, all of which helps them cope with foster care and eventually make a smoother transition home.<sup>6</sup>

Many state laws only require that children see their parents for one hour every two weeks, or at best, with no visits missed, 26 hours a year, little more than a day.<sup>7</sup> The challenge for practitioners is to advocate for more frequent visits with as little supervision as necessary. When possible, visits should occur outside the agency and include activities that mimic family life. Imagine the difference between sitting across a table with few toys or food in a cramped, hot office (with a worker sitting taking notes nearby) and going with a parent school shopping, or to the park or YMCA.

### Small Adjustments/Key Timeframes

#### First court appearance:

- Raise visiting—ask that visits take place at least once a week for two hours, more often if possible. Most of the time, supervised visits are an agency's and a court's default. If visits will start with supervision, insure that they are as frequent and lengthy as possible.
- If visits will be supervised, ask that the child welfare agency state the reasons for supervision on the record.
- If your client has identified a possible visit host, ask that the agency explore that person.<sup>8</sup>
- If a case will not go to trial for several weeks or months and no other preliminary proceeding is scheduled, ask the court to place the case on the calendar for a status report on visiting. Include the results of any exploration of a visit host and where and how visits will take place.

#### Week one:

- When first meeting your (parent or child) client, ask about activities and events that might be a

focus for visiting, such as school meetings, shopping trips, movies, and birthdays. Even young children can describe things they did with parents in the past that they enjoyed and may have ideas about places where visits could take place outside of the agency.

- Ask parents and older children about relatives or other people (neighbors, close friends, guidance counselors, pastors) who could host some visits outside the agency; be sure to provide the information to the foster care agency.

#### **Within first four weeks:**

- Assess how visits are going, particularly whether a parent and child are getting appropriate support before, during, and after a visit. This may mean a phone call to a caseworker, a foster parent, or your client.
- If the case is on for a status report and you represent a child, ask for the child to be produced so you can discuss visits.
- Always ask whether the foster parent is willing to host some or most visits.

#### **After eight weeks, and every court appearance thereafter:**

- If visits are supervised, ask whether supervision continues to be necessary.
- If visits are held at the agency, ask whether visits can move outside the agency.
- Assess the timing and frequency of visits. If necessary, ask whether they can become longer or more frequent.
- Create a tickler system in your calendar to determine if visiting plans are progressing at least every two-three months.

#### **If resources permit:**

- Have a social worker, social work intern, or other staff person observe a visit if you learn of

problems. Assessing a child's reaction to visits is complicated. "Negative" reactions, such as acting out or anxiety, may mean that either a parent or child needs more support before, during, or after a visit. Be careful about assuming a child's "negative" reaction to a visit means the visiting should be restricted. Sometimes it indicates exactly the opposite and visiting needs to be expanded or visiting conditions improved. Older children can often tell you what they wish could change. Sometimes, with younger, preschool-aged children, "negative" reactions, such as tantrums and bedwetting can decrease with an increase in visits—because they often need more frequent contact with an adult to maintain the secure attachment that permits them to make smooth transitions back and forth between a foster caretaker and a parent.<sup>9</sup>

#### **Generally:**

- Remember that emotional endings to visits (parents or children crying) are often difficult for professionals to tolerate or observe, but may signal a "good" visit and a very "normal" reaction for a family having to separate once again.
- Get short orders that address transportation, what happens when a visit is missed through no fault of the parent, arrangements for special visits (e.g., holidays), and criteria for phone or e-mail contact. Explore your state's regulations regarding visiting and visiting supports.<sup>10</sup>
- Explore resources in the community for visits to take place (*this is a great intern project*). Good places for visits are libraries, parks, community centers, museums, street fairs and carnivals, zoos, sport facilities, and shopping malls for older children.

#### **Placement**

Children and families experience multiple disruptions when children enter foster care. Finding a placement that appropriately supports a child's connection to family promotes reunification. Foster parents who are willing to host visits in their home, facilitate phone contact, and otherwise support a parent and child's relationship play a critical role in maintaining family ties that inspire parents to stay engaged in services.

Helping a family stay connected also permits parents to stay involved in the child's life in appropriate ways. Additionally, a placement that helps children stay connected to teachers, friends, and other community supports like therapists or physicians eases the transition to foster care and conversely, the transition back home. Ensuring continuity of services also means fewer adjustments following reunification.

#### *Small Adjustments/Key Timeframes*

##### **First court appearance:**

- Always ask whether a child can remain in his or her daycare, school, or afterschool program. If not yet explored, ask the agency to do so and report back to the parties.

##### **First court appearance/first interview:**

- Ask the agency caseworker, and parents and older youth, about relatives and anyone with a prior significant connection to a child. Godparents, neighbors, and babysitters may be willing to provide temporary care.
- If the case will not be back in court for a long time, ask the court to put the case on the calendar for a status report within *two weeks*.
- If representing a parent, ask at the first interview about services that the parent would like to continue. Ask the agency's caseworker the same questions to determine if



any are problematic.

#### **Within first two weeks:**

- Reach out to any placement resources that seem promising. Try to secure their appearance for the status report if the agency is not moving quickly to investigate the resource (sometimes a judge will issue an order to expedite an investigation if given the opportunity to see the person in the courtroom).
- Ask your client or service providers to identify any logistic (e.g., transportation, scheduling) or financial (e.g., the parent has lost Medicaid) barriers to a family continuing in previous services, so that if alternative plans need to be made, they can be made quickly.

#### **Within first six weeks:**

- Ask the foster parent about her ideas for supporting the relationship between the parent and child—you may be surprised. Ask about exchanging phone numbers and photos, and going on outings. As we would with our own children, expect that the adults involved can work together with proper support. If a foster mother does not have to drive to an agency, she might be very happy to have visits in her home or nearby.
- Kinship foster parents often can provide more consistent support for children and parents. If a parent is objecting to kin, find out why and ask questions about additional resources.

#### **Generally:**

- Explore state regulations governing placement decisions. They often provide that non-kin resources with a prior relationship to the child can be explored as foster parents as quickly as relatives.<sup>11</sup>
- Explore state regulations and/or local policy memos on whether and in what circumstances an

agency or board of education will provide transportation to allow a child to stay in his school.

- If special education services are disrupted, take steps to insure that special education records are provided to a new school placement.

#### **Services**

Too often, agencies choose from a formulaic menu of services in making referrals for parents and children.<sup>12</sup> Often, foster care workers refer families to services that are close by or familiar. This results in service referrals that may not reflect a family's strengths (only their needs), may be ill-suited to a parent or child, or may create unnecessary demands on a parent who must attend programs, court appearances, and visits. Poor or inappropriate services lose legitimacy for parents and can cause them to disengage or "fail to comply."

Frontloading services may feel burdensome to child welfare staff. The time investment in the first months—family conferencing, multiple referrals, and initial obstacles—is not in vain. Families receiving stable yet flexible and creative services in the areas of mental health, substance abuse, domestic violence prevention, anger control, and parenting education will likely be allowed more time with their children and move faster towards reunification.<sup>13</sup>

#### *Small Adjustments/Key Timeframes*

##### **First court appearance/within first week:**

- Ask questions about a parent's strengths and what services would build on them. Does the parent have a job, an extended family, a prior good history with another provider? Make sure the case planner is aware of a parent's prior connection to services and a family's other commitments, such as a job, so any demands of a new service

plan do not interfere.

- If representing a parent or older youth, ask about the experience with services and whether they are continuing. Does your client trust the service provider? Should the service provider remain involved?
- Have HIPPA and other general confidentiality releases with you in court and ask your client to sign these so that you can speak with providers throughout the case. Explain to your client why it is important that you speak with providers frequently to troubleshoot issues that may arise and assure that information is integrated into the court process.
- Determine which service goals will take a long time to achieve. If a parent needs help obtaining suitable housing, there is no time like the first time you meet that parent to start the lengthy process of applying for subsidies or supportive housing programs. Insight-oriented psychotherapy geared towards helping parents reflect on their role in the abuse or neglect is not a quick fix. An appropriate referral on day one or day 35 is much more practical than one year into the case.

#### **Within two weeks:**

- If there was no service plan discussed at the initial court appearances, contact the worker (or your client) about the service plan.
- Ask the agency (through a caseworker or counsel) why certain services are necessary.
  - If parenting is recommended, what kind?
  - Are culturally competent services available?
  - Are services geared to the right developmental stage of the parent's child(ren)?
  - Can services be consolidated? (e.g., Does a parent need anger

management classes and individual counseling or can counseling address both?)

- How far and how often are children and parents being asked to travel and at what times?
- Does the parent need assistance that might not be obvious from the allegations? (e.g., in a substance abuse case, assisting a mother with housing, Medicaid, or educational advocacy for her child may reduce family stress and make it easier for her to focus on treatment.)

#### **After four weeks:**

- If your client (parent or child) is still not in needed services, find out why.
- If additional court orders are necessary relating to funding, transportation, etc., pursue those.
- Take steps to ensure parents and youth are, where willing, engaged in services within six weeks of the case beginning. Delay in services usually stalls other important aspects of the case, especially progress around visiting.

#### **Generally:**

- Ask the court to direct that you be provided any documents relating to services (most states have regulations that require documentation at the 30 and 90 day mark). Often documents related to service plans reveal when services are poorly developed, a lack of clarity about which provider is responsible for what, or missing pieces in the service plan.<sup>14</sup> Reviewing the documents will help you avoid time wasted because aspects of the plan are unrealistic, have not anticipated payment issues, or are less than ideal for a parent or child (e.g., a family therapy appointment is far from the foster home or a parent is referred to

services where no one speaks her language).

- Ask the court to permit the parent to participate regularly in a child's services, such as Early Intervention services, education or health appointments. A parent will need to be involved once the child is home, so start the lessons now.
- Continue to ask parents and older youth if services are appropriate. When service providers are positive about clients' progress, ask them to provide that information to the court.
- Request court orders for referrals to be accomplished by a certain date, or ask for status reports or short adjournments for the agency to report on its efforts and the parents' progress with services. These actions remind everyone of the sense of urgency that a family has about its own goals and can speed progress in a case.
- Learn what your state regulations say about how services and assistance should be provided and in what timeframes.<sup>15</sup>
- Understand the role of the attorney in the actual case planning meeting.

#### **Conferences**

You can capitalize on a national trend that is becoming a child welfare norm: family-centered child welfare practice. Many states are adopting models where child welfare-involved families participate directly in safety and service planning.<sup>16</sup> These meetings usually occur anywhere from a few days to 30 days after a child is removed and are sometimes referred to as family team decision-making conferences or child safety conferences. These conferences allow your clients – parents and children – to sit alongside child welfare workers, investigators, social workers, other service providers, and extended family to help make important decisions about their lives, such as:

- Will the family remain together?
- Will a family member become a foster parent?
- How often will the parent and child visit each week?
- Is the family ready for unsupervised visits?

Much decision making occurs outside court. Often, the traditional “social work/child welfare” sphere, where concrete planning takes place, and the “legal” sphere, where legally binding decisions about a family are made, do not connect. Sometimes an attorney has inadequate or inaccurate information when a case is in court, or a court appearance is the first time an attorney hears from a client that child welfare decisions made weeks before at an agency meeting are problematic. Interdisciplinary legal representation (when attorneys and social workers work together on the legal case) for parents and children is one solution to this historical disconnect. However, an attorney does not need a social worker on staff to help bring these two worlds together.

#### *Small Adjustments/Key Timeframes*

##### **Day one/within first week:**

- Find out if your jurisdiction holds family or team decision-making conferences.
- Ask about the agencies' protocols for out-of-court conferences and what kinds of documents are generated at those conferences.
- Ask the agency caseworker if certain conferences are routine in every case. If so, ask the court to direct that you be notified before those conferences so you can either arrange to attend, have someone attend, or prepare your client to attend.
- Discuss with your client what will happen in between court appearances and make sure the client knows who can accompany them

## RESOURCES

### Center for Family Representation, Inc. (CFR)

Information on Cornerstone Advocacy and training and technical assistance.  
212/691-0950/ [www.cfrny.org](http://www.cfrny.org) / [info@cfrny.org](mailto:info@cfrny.org).

### Annie E. Casey Foundation

Information and technical assistance on family team decision-making conferences.  
[www.aecf.org](http://www.aecf.org)

### Center for the Study of Social Policy

Information on conferencing.  
[www.cssp.org](http://www.cssp.org)

### Pew Charitable Trusts

Information on parent engagement, promising service approaches, and visiting.  
[www.pewtrusts.org](http://www.pewtrusts.org)

### New York City Administration for Children's Services (ACS) Office of Family Visiting and Parenting Education

Information on promising approaches to family visiting.  
Contact Paula Fendall, director, [paula.fendall@dfa.state.ny.us](mailto:paula.fendall@dfa.state.ny.us)

### Children's Bureau, Administration on Children, Youth and Families

Information on a variety of promising approaches to family reunification.  
[www.childwelfare.gov/info@childwelfare.gov](http://www.childwelfare.gov/info@childwelfare.gov)

### ABA Center on Children and the Law, National Project to Improve Representation for Parents Involved in the Child Welfare System

Information on effective parent representation in child welfare cases.  
[www.abanet.org/child/parentrepresentation/home.html](http://www.abanet.org/child/parentrepresentation/home.html)

to conferences, what documents are important to bring, and to notify you ahead of time so you can counsel them just before the conference if needed.

- When representing an older youth, ask if your client would like to attend the meeting.
- Ask parent and child clients if there is someone who can accompany them to initial meetings to help make their voice heard and to challenge inappropriate service decisions.
- Make sure prior service providers are notified of meetings. If necessary, ask the court to direct that they be included. Families may distrust their child welfare workers, especially following the removal of children. Inviting families, service providers, and advocates to the decision-making

table early in the case helps address those concerns.

#### Within two weeks:

- Help your client prepare for the first formal conference (or case-work meeting).
- Use checklists to help a client remember what to raise at the conference.
- If you can, be available in person or by phone during the meeting. If you cannot be available either in person or by phone, help your client practice how to ask to step out of the meeting to contact you.
- Explain the Adoption and Safe Families Act (ASFA) to your client. A parent or older youth may hear about ASFA at a conference and may find it stressful to hear the word “adoption” so early in the child welfare process.

#### Within four weeks:

- Find out about your client's experience at any agency conferences if you or someone else could not go along.
- Follow up with the agency or service providers if your client feels inappropriate services have been required.
- If necessary, ask the court to recalendar the case to ensure more appropriate referrals are made.

#### Generally:

- Give copies of any court orders, particularly those around visits or exploring placement options to your client—having copies of orders can help a client be a better advocate for herself at an agency conference.
- Ask a parent or older youth to contact you after a conference if there is a problem.
- Research state regulations and administrative memos issued by your social services district to find out if you, as an attorney, can attend a conference, or at the very least if a parent can bring a support person. Attorneys are sometimes viewed as unwelcome (because agency staff presumes, sometimes fairly, that an attorney will bring an adversarial tone to a conference); nonetheless, if your client needs help advocating for his views at a conference, know which meetings you can attend.
- If necessary, send your client a letter referencing that regulation or administrative directive when the client attends the conference and brings a support person.

### The Legal Basis for Cornerstone Advocacy

Meaningful visits, well-matched services, supportive placements, and collaborative conferencing can be promoted at every opportunity—in and outside the courtroom. Whether



you are raising one of these issues on the phone, in a meeting, in court, or in motion papers, understanding the legal underpinnings of Cornerstone Advocacy helps. This is true for legal and social work staff.

Fair or not, many agency workers and agency attorneys will work hard for a family in these four areas if they believe the law compels them to. Judges are more likely to be persuaded by arguments that are bolstered by law. A legal argument can be made to address nearly every situation that arises in Cornerstone Advocacy by combining the sources of law and authority below:<sup>17</sup>

- “Reasonable efforts” language exists in most dependency statutes, in many cases since the early 1980s. The passage of ASFA prompted a renewed focus on the child welfare agency’s duty to make reasonable efforts to safely reunify families. Think about how visiting, conferencing, services, or placement options you are pushing can fairly be deemed a ‘reasonable effort’ in support of reunification.
- State dependency statutes address services and assistance.<sup>18</sup> Also look to any issue-specific sections of your state statute (i.e. the portion that deals with services, visits, or placement). Argue that your advocacy fulfills the spirit if not the letter of that section.<sup>19</sup>
- State regulations detail the obligations that agencies owe parents and children. For example, most states have regulations governing visits (including specific agency obligations around transportation, missed visits, long distance phone calls), conferences and services (including an agency’s obligation to invite supports for the family, even attorneys), and placement (including helping youth stay connected to important institutions, like schools).<sup>20</sup>
- Administrative directives, memos, and guidelines published by state

or county agencies may address visiting, placement, services, or conferences. Find these on state and county Web sites. While administrative directives and memos are not law *per se*, they typically represent social service providers’ interpretation of best practices and legal obligations and thus can be persuasive in convincing an agency or a judge to move on a Cornerstone issue.

## Conclusion

Regardless of staffing resources, Cornerstone Advocacy provides a paradigm for your advocacy strategy and enables you to focus on those issues which have the greatest impact on a family’s chances for safe and successful reunification. The small adjustments you make to integrate Cornerstone Advocacy in turn help all professionals working with a parent or children maintain a sense of urgency about each family’s circumstances and the importance of minimizing the time children spend in foster care.

Beyond this, Cornerstone Advocacy also helps to more accurately identify those cases where a parent will need a much longer-term service plan to address her needs or where a permanency plan other than return home is appropriate. Doing a good job on the trial on the merits is critical of course, but Cornerstone Advocacy also enables you, from day one, to help your clients achieve the goal that often means the most to them—the chance to have their families whole and healthy.

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## Endnotes

<sup>1</sup> Experience and research suggest that the longer children stay in care, the less likely they are to return home; thus, early and sustained focus on activities directed to safe reunification are critical. See, e.g., *Child Welfare Information Gateway Issue Brief: Family Reunification: What the Evidence Shows*. Washington, DC: U.S. Department of Health and Human Services, June 2006, 1, 12. Available at [www.childwelfare.gov/pubs/issue\\_briefs/family\\_reunification/family\\_reunification.pdf](http://www.childwelfare.gov/pubs/issue_briefs/family_reunification/family_reunification.pdf); *Time for Reform: Investing in Prevention: Keeping Children Safe at Home*. Philadelphia: Pew Charitable Trusts, 2007, 4-5, 14. Available at [www.kidsarewaiting.org](http://www.kidsarewaiting.org).

<sup>2</sup> CFR is a nonprofit law and policy organization in New York City that advocates for parents and children in the child welfare system. Currently, CFR’s average length of stay for children in foster care is 3.25 months, compared to 11.5 months for children who enter care in New York City and 48 months for all other children in care. Our rate of foster care re-entry is less than 1% as compared to a citywide rate that averages between 10 and 12%.

<sup>3</sup> The Adoption and Safe Families Act (ASFA) requires, with certain exceptions, that any child who has been in care for 15 of the most recent 22 months should be freed for adoption. In practice, 15 months can pass quickly, particularly in cases involving a parent who is trying to overcome substance abuse, is briefly incarcerated, or is addressing a mental health issue. Missed opportunities to help a family stay connected and keep a parent engaged in services early in the case too often leads to many months passing and children solidifying new attachments to foster families and new communities. Even when professionals acknowledge more could have been done earlier, they often feel compelled to seek a goal change to adoption if many months have passed without progress toward reunification.

<sup>4</sup> See, e.g., Leathers, Sonya J. “Parental Visiting and Family Reunification: Could Inclusive Practice Make a Difference?” *Child Welfare* 81(4), Jul-Aug 2002, 595-616; U.S. Department of Health and Human Services, June 2006, 12; Pew Charitable Trusts, 2007, 15.

<sup>5</sup> See Haight, Wendy L., Jill Doner Kagle & James E. Black. “Understanding and Supporting Parent-Child Relationships During Foster Care Visits: Attachment Theory and Research.” *Social Work* 48(2), 2003; see also, Smariga, Margaret. *Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know*. Washington, DC: ABA Center on Children and the Law & Zero to Three, July 2007. Available at [www.abanet.org/child/policy-brief2.pdf](http://www.abanet.org/child/policy-brief2.pdf)

<sup>6</sup> See, Leathers, 2002, 598, 608-613.

<sup>7</sup> N.Y. Comp. Code R. & Regs. tit. 18, § 430.12 (minimum visiting required is once every two weeks); Cal. Welf. & Inst. Code § 362.1 and Fla. Admin. Code Ann. r. 65C-28.002 (minimum visiting required is once per month).

<sup>8</sup> A visit host is a person identified by a parent or a child who can monitor visits in lieu of a

caseworker. While visit hosts are often not appropriate for initial visits, it is important to explore possible candidates early, even if they will not assist with visiting right away. A visit host can be a pastor, neighbor, extended family member, foster parent, coach, guidance counselor, etc.—someone who can be trusted to insure the child’s welfare but at the same time provide opportunities for a family to spend more time together pursuing family activities. For more information and to receive a copy of the *New York City Administration for Children’s Services Visit Host Guidelines*, contact CFR at info@cfrny.org.

<sup>9</sup> See Haight, Wendy et al. *Making Visits Better: The Perspectives of Parents, Foster Parents, and Child Welfare Workers*. Urbana, IL: Children and Family Research Center, School of Social Work, University of Illinois at Urbana-Champaign, July 2001, 23-25; See also Haight, Kagle, and Black, 2003, 196-202.

<sup>10</sup> See, e.g., Ala. Admin. Code r. 660-5-50-.06 (visiting should be organized around events such as shopping, picnics and recreational outings and visiting arrangements should encourage parents to engage in the parenting role through such activities as doing homework, providing meals and attending school appointments); Fla. Admin. Code Ann. r. 65 C-28.002 (visiting can occur in an institutional setting only when it is “unavoidable”).

<sup>11</sup> N.Y. Comp. Codes R. & Regs. tit. 18, §§ 443.1, 443.7 (someone with “significant connection” to child is entitled to an expedited home study, even if not kin); Cal. Welf. & Inst. Code § 362.7 (an agency should explore relatives, neighbors, clergy, and family friends); State of Florida Department of CF Operating Procedure Child and Families, No. 175-34, *Family Safety and Preservation: Removal and Placement of Children*, August 1, 1998, (nonrelative may be considered as a placement resource under policy guidelines of the social services department).

<sup>12</sup> U.S. Department of Health and Human Services, 2006, 4-5; Pew Charitable Trusts, 2007, 7, 15.

<sup>13</sup> Ibid.

<sup>14</sup> See, e.g. Fla. Admin. Code Ann. r. 65C-30.008(3)(a-d); N.Y. Comp. Codes R. & Regs. tit. 18, §§ 423.2, 423.4; Ill. Admin. Code tit. 89, § 302.40(c).

<sup>15</sup> E.g., Cal. Welf. & Inst. Code § 361.5(a)(3) (court orders may be needed if services need to extend beyond 12 months); Ill. Admin. Code tit. 89, § 315.250 (services may include family planning and “intensive family preservation services,” but if the agency changes the child’s permanency goal, it only needs to offer a parent visiting); Md. Code Regs. 07.01.06.02 (a-b) (specifically references “transportation to and from services”).

<sup>16</sup> Research from the U.S. Department of Health and Human Services, the Annie E. Casey Foundation, Pew Charitable Trusts, and the Center for the Study of Social Policy Web sites found the following states use some form of family or team decision-making conferences to engage parents in child welfare cases: IA, TX,

KY, NH, OH, OK, OR, RI, WY, PA, MI, NC, NY, MN, and FL. See: [www.childwelfare.gov/pubs/issue\\_briefs/family\\_reunification/family\\_reunification.pdf](http://www.childwelfare.gov/pubs/issue_briefs/family_reunification/family_reunification.pdf), [www.aecf.org/Home/CaseyPlaces.aspx](http://www.aecf.org/Home/CaseyPlaces.aspx), [www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Foster\\_care\\_reform/time\\_for\\_reform.pdf](http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Foster_care_reform/time_for_reform.pdf), [www.cssp.org/uploadFiles/Family\\_Team\\_Conferencing\\_Handbook.pdf](http://www.cssp.org/uploadFiles/Family_Team_Conferencing_Handbook.pdf).

<sup>17</sup> Whenever possible, practitioners at CFR structure legal arguments using all four elements mentioned. For assistance on crafting legal arguments for oral and written advocacy, contact CFR at info@cfrny.org.

<sup>18</sup> N.Y. Fam. Ct. Act §255, 1015-a; Cal. Welf. & Inst. Code § 16507(a).

<sup>19</sup> See N.Y. Fam. Ct. Act §§1017, 1027-a (addresses placement with relatives and siblings); N.Y. Fam. Ct. Act §1030 (addresses visiting); N.Y. Fam. Ct. Act. §§1055, 1089 (directs the court to integrate visiting plans into specific orders).

<sup>20</sup> See, e.g., N.Y. Comp. Code R. & Regs. tit. 18, §§ 430.12, 423.2, 423.4, 428 & 430.11; Fla. Admin. Code Ann. r. 65C-30.008(3)(a-d) and 65C-30.008 (2).

## Distance Learning

### New Online Tutorial: Substance Use Disorders, Treatment, and Family Recovery: A Guide for Legal Professionals

A new free online tutorial developed by the National Center on Substance Abuse and Child Welfare and the ABA Center on Children and the Law provides a primer for legal professionals on:

- alcohol and drug addiction
- substance abuse treatment and recovery
- the impact of substance abuse on children and families
- child welfare timetables and their impact on parenting
- cross-system communication and collaboration
- national resources on substance abuse and child welfare

The online tutorial provides the knowledge and tools to help all legal professionals involved in child welfare cases involving substance abuse perform their roles:

- *As a dependency court judge*, you are concerned with the safety and welfare of the child. You closely monitor the developmental timetable of the child, and decide if a child can return to his/her family, or if parental rights need to be terminated so the child can be freed for adoption. If a parent is in substance abuse treatment, you need to know if treatment is working to allow the child to return to the parent.
- *As the child’s attorney*, you need to understand substance abuse and addiction as well as treatment and recovery in the context of child development.
- *As a parent attorney*, you protect the legal rights of the parent and play a crucial role in understanding your client’s wishes regarding parenting, encouraging your client’s engagement in substance abuse and other services, and advocating for reasonable efforts to provide these services to your clients.
- *As an agency attorney* representing the child welfare agency, social workers, or the state, you decide when to file charges and whether to refer cases to criminal courts for further action. You need an in-depth understanding of substance abuse/addiction and its role in parenting and future risks to children.

Up to 6.0 Continuing Legal Education (CLE) credits have been approved. For information on CLE credits approved by your state, visit: [www.ncsacw.samhsa.gov/tutorials/pop-tut3-desc.html](http://www.ncsacw.samhsa.gov/tutorials/pop-tut3-desc.html)

For more information on the tutorial, visit: [www.ncsacw.samhsa.gov/tutorials/tutorialDesc.asp?cid=3](http://www.ncsacw.samhsa.gov/tutorials/tutorialDesc.asp?cid=3).