

# EVALUATING THE IMPACT OF INTERVENTION ON FAMILIES

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The consensus of the Working Group on the Role of the Family of the *UNLV Conference* was that “[o]nce involved, [the child welfare and juvenile delinquency] systems over-involve themselves [in the lives of families]. They seek, in good faith, to do too much.”<sup>1</sup> The Group recommended that service plans be narrowly tailored to address the needs of the family and that families should be participants in the process of creating the plans.<sup>2</sup>

In her paper, *Representing Children in Families*, Susan Brooks proposes that lawyers for children need to adopt the family systems theory to guide us in our work.<sup>3</sup> Family systems theory encourages consideration of the “broader environment in which an individual, or in our case, a child, exists, as well as the child’s family.”<sup>4</sup> Brooks also urges children’s lawyers to become more familiar with Therapeutic Jurisprudence (“TJ”), which “promotes exploration of the effects of laws and the legal system on the well-being of the persons they are meant to serve.”<sup>5</sup>

This paper builds upon Brook’s paper and the Group’s recommendation to lay out practical guidelines which lawyers can use to advocate for appropriate system involvement (rather than over-involvement) and meaningful family service plans for families involved in the child welfare system.

Most lawyers for children have not been involved in the child welfare system as parents. Without being in that position, it is hard to imagine what it might feel like to have your children removed from your home and to engage in the myriad of services that we demand parents receive before they can regain custody of their children. Drug screening, individual counseling, parenting classes, AA Meetings, drug treatment, and family counseling, are among the many services in which families are routinely ordered to engage, on top of securing (or retaining) a job and a home.

As a parent of two special needs children who have seen a variety of pediatricians and nineteen specialists, I’ve begun to think about parents in the child welfare system in a new way. My family often has two or three appointments a week, and in those weeks in which we do, we are unable to do almost anything else. I’ve often wondered what it would be like to have four to five

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<sup>1</sup> *Report of the Working Group on the Role of the Family*, 6 NEV. L.J. 616 (2006).

<sup>2</sup> Susan L. Brooks, *Representing Children in Families*, 6 NEV. L.J. 724 (2006).

<sup>3</sup> *Id.* at 724.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 729.

appointments to attend every week, as so many of the parents with whom we work do. If my family is paralyzed by our appointments, what is the impact on the parents with whom we work, some of whom are already overburdened by issues such as poverty and disability, when they are overscheduled? Additionally, we have a car, which is a luxury many parents with whom we work cannot afford. I've often wondered if I'd have the energy to get to so many appointments if I had to take the bus there and home. I suspect that I would not.

My parenting ability seems to decrease in direct correlation to the number of appointments I have to get to in the course of the week. Based on that knowledge, I question whether the jam-packed service plans that we routinely put together for families will improve the quality of parenting. Creating lengthy plans with multiple tasks, instead of improving parenting ability, might instead place stress on the family that could negatively impact parents' ability to care for their children. "Stress builds when the resources and coping skills of a family are inadequate to meet the demands and expectations of the social environment. Family stress levels are a predictor of 'rotten outcomes' for children. If stress increases beyond a certain point, for whatever reason, a family's ability to nurture its children decreases."<sup>6</sup>

The basis for the assigned services is not to overburden families and weaken parenting ability, but to treat underlying issues that led to the children's removal from their parents' custody. Nevertheless, unless the services are narrowly tailored, as the Working Group on the Role of the Family recommends, this could be an unintended consequence. Conversely, "[p]arents are likely to become better parents if they feel competent in other important areas of their lives, such as in employment, in school, and in other family and social relationships."<sup>7</sup> When parents are exhausted from the over-involvement of the child welfare system, they will not feel competent in any area of their life, especially parenting.

The Working Group on the Role of the Family recommended that systems need to focus on the "needs of the family in pursuing and tailoring services to meet those needs," and that "we [as advocates for children, should] ask [these systems] to strive to do less."<sup>8</sup> Prioritizing needs and recommending only a small number of services at one time will give parents a better opportunity to make the needed changes to regain custody of their children. To the extent that greater intervention is needed, one service agency that can offer the myriad of needed services, consider the impact of treatment on all family members, and include the entire family should be located.<sup>9</sup> After seeing so many doctors, I am very careful about the professionals that my children see. The doctors that we currently see consider the impact of recommended treatments on our family,

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<sup>6</sup> CHRISTIE CONNARD & REBECCA NOVICK, *THE ECOLOGY OF THE FAMILY, CHILD, FAMILY, AND COMMUNITY PROGRAM* (1996), available at <http://www.nwrel.org/cfc/publications/ecology2.html>.

<sup>7</sup> *Id.*

<sup>8</sup> *Report of the Working Group on the Role of the Family*, *supra* note 1, at 619.

<sup>9</sup> See Community Recovery Resources, <http://www.corr.us/> (last visited May 18, 2006). There are not many service centers that provide multiple services in one place. Advocates will need to seek such agencies out and we as a community need to lobby for the creation of more.

and they will recommend delaying needed treatments during times in which we are overburdened.<sup>10</sup> As a result, I am better able to care for my children and manage their services, and I have more confidence in the professionals and am more willing to follow their recommendations. We must consider the impact of our service plans on the families with whom we are involved in the same way.

A checklist would be useful when considering the impact of a service plan on a family. The Policy Institute for Family Impact Seminars, located at the University of Wisconsin-Madison/Extension, has created the Family Impact Analysis, “[to] critically examine[ ] the past, present, or probable future effects of a policy, program, or service on family well-being.”<sup>11</sup> While the Analysis is intended to be used on broad program/policy issues, parts of it could be adapted to an individual service plan.<sup>12</sup>

The Family Impact Analysis lists its recommendations in the form of numbered principles. “Principle 1. . . . Policies and programs should aim to support and supplement family functioning and provide substitute services only as a last resort. Does the proposal or program: support and supplement parents’ and other family members’ ability to carry out their responsibilities? . . . Set unrealistic expectations . . . ?”<sup>13</sup>

As discussed above, service plans need to be focused on the underlying issue that led to a child’s removal and set out reasonable requirements that parents will be able to meet. As the Working Group on the Role of the Family noted, “the system too often relies on existing programs and resources, and defines the family’s needs in terms of available services,” instead of the family’s actual needs.<sup>14</sup> Lawyers need to question the recommended services that a parent is required to complete. How will each service strengthen parenting ability? Does the plan seek to do too much? Will the parent reasonably be able to complete the required tasks given other responsibilities? A plan that sets out a reasonable level of services that are targeted to address the issue which led to the children’s removal has a much better chance of leading to reunification, and will give parent’s a feeling of competence that will strengthen their confidence and parenting ability.

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<sup>10</sup> Just as we as children’s lawyers are aiming to consider a child’s context in our representation by focusing on the child as a member of the family, medical professionals often consider a child’s context in the course of treatment. See The World Health’s Organization International Classification of Functioning, Disability and Health, <http://www3.who.int/icf/icftemplate.cfm> (discusses five points, the last one being environmental factors), and *A Salute to Six Heroes*, CHILD, Apr. 2006, at 114 (G. Denman Hammond, M.D., honoree by Child magazine for his work in pediatric cancer research notes that “With every child, I realized I was treating a member of a family . . . . Parents are part of the therapy and have to be involved as members of the medical team.”).

<sup>11</sup> ELIZABETH GROSS ET AL., HOW TO CONDUCT A FAMILY IMPACT ANALYSIS, <http://familyimpactseminars.org/reports/fiacond.pdf> (last visited on Mar. 23, 2006).

<sup>12</sup> See The Policy Inst. for Fam. Impact Seminars, *A Checklist for Assessing the Impact of Policies on Families* 1, <http://familyimpactseminars.org/ipfcheck.pdf>. (last visited Mar. 23, 2006) for the entire analysis and discussion. There are several evaluations of programs located at <http://familyimpactseminars.org>. The parts of the analysis most relevant to families in the child welfare system have been included in this article.

<sup>13</sup> *Id.*

<sup>14</sup> *Report of the Working Group on the Role of the Family*, *supra* note 1, at 620.

A plan that places too great a burden on families will overwhelm parents and lead to failure. Just as my parenting ability is affected by the number of appointments for my kids, the chance that I will make mistakes due to stress increases as well. I have forgotten insurance referrals, meetings, and even left my car door open during weeks in which we see several specialists. I have often been thankful that my mistakes will not lead to the removal of my children, as they might for our clients' parents.

"Principle 2: . . . Whenever possible, policies and programs should encourage and reinforce marital, parental, and family commitment and stability."<sup>15</sup>

Service plans need to focus on ways to strengthen families whenever possible. Do service plans allow time for visits between children and parents and give parents a chance to work on their parenting during these visits? Do the plans allow the parent the time and opportunity to be involved in a child's school and medical appointments, if such involvement would not be detrimental to the child? Continuing to treat parents as vital members of their child's life (which, of course, they are no matter how we treat them) has several benefits: parents have information about their child that most system participants will not have; their child will continue to have their presence and input; and parents will know about their child's progress while in foster care which will assist them in meeting the child's needs after reunification. Allowing, even expecting parent involvement in their child's life, will strengthen family ties for both the child and parent which will assist in reunification as well.

Principle 3: . . . Policies and programs must recognize the interdependence of family relationships, the strength and persistence of family ties and obligations, and the wealth of resources that families can mobilize to help their members. To what extent does the policy or program: involve immediate and extended family members in working towards a solution? . . . build on informal social support networks (such as community/neighborhood organizations, religious communities) that are essential to families' lives?<sup>16</sup>

Parents should be involved, whenever possible, in choosing a substitute caregiver for their child. Along with the child, they have the most information about potential relative caregivers or even close friends who might be suitable custodians. Parents (as well as children) also need to be involved in writing the service plan, as the Working Group on the Role of the Family recommends.<sup>17</sup> In addition to having the most insight into the needs of their families, parents may have good insight into resources within the families' own community, including community/neighborhood organizations and religious communities. These resources have the added benefit of being more accessible to parents (presumably they are close to the parent's residence), and of tying the parent to

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<sup>15</sup> The Policy Inst. for Fam. Impact Seminars, *supra* note 12, at 1.

<sup>16</sup> *Id.* at 2.

<sup>17</sup> See Brooks, *supra* note 1, at 740 (allows the child's family to develop a plan "to keep the child safe, meet the child's needs, and promote the child's best interest"). Systems "should involve the family in defining the problems that it faces and helping the family address those problems." *Report of the Working Group on the Role of the Family, supra* note 1, at 620.

their own community which has been shown to positively impact parenting.<sup>18</sup> These ideas build upon the guidelines which early intervention programs use to build strong parent-professional partnerships. These guidelines include:

- Recognizing the knowledge and expertise parents have about their child and that child's needs
- Empowering parents, as a way to provide help and information and to increase a parent's ability to nurture children
- Negotiating a match between the family's values, needs and goals and the professional's approaches, priorities and services.<sup>19</sup>

As the Working Group on the Role of the Family notes, families "are too often excluded from the decision making that decides the forum and process by which their own problems are addressed."<sup>20</sup> If parents and families are a part of writing a service plan, there is a greater likelihood that it will meet their needs and that they will be invested in completing the services.

Principle 4: . . . Policies and programs must encourage individuals and their close family members to collaborate as partners with program professionals in delivery of services to an individual. . . . In what specific ways does the policy or program: . . . take into account the family's need to coordinate the multiple services they may require and integrate well with other programs and services that the families use? make services easily accessible in terms of location [and] operating hours . . . ?<sup>21</sup>

In creating service plans which address the needs of the family while not overburdening parents, advocates need to ask such practical questions as: How many appointments or meetings will a family have in a given week based on the service plan's requirements (appointments with social workers and lawyers should be considered as well as court dates)? Where are the appointments? What are the hours of the service agency and do those hours work for the family? Do family members have transportation to all of these appointments? Is there a way to coordinate services? What other responsibilities do family members have? If parents have a full-time job, and then every day is filled with tasks such as: drug screening, counseling, AA meetings, parenting classes and meetings with social workers, parents will become overwhelmed and will not be able to make the necessary changes to regain custody of their children. Instead, the list of required services must be manageable.

Principle 5: . . . Families come in many forms and configurations, and policies and programs must take into account their varying effects on different kinds of families. Policies and programs must acknowledge and value the diversity of family life and not discriminate against, or penalize families solely for reasons of structure, roles, cultural values or, life stage.<sup>22</sup>

Every family that we work with has differing reasons for entering the child welfare system and will need individualized service planning to meet their varied needs. Some parents may be able to handle three to four services at one

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<sup>18</sup> See National Network for Family Resiliency, *Building Policies That Put Families First: A Wisconsin Perspective*, <http://www.agnr.umd.edu/nfr/fampolicy/wfis/exec01.html>. (last visited on Mar. 23, 2006) (one of the best predictors of child abuse is a socially isolated family).

<sup>19</sup> CONNARD, *supra* note 6.

<sup>20</sup> *Report of the Working Group on the Role of the Family*, *supra* note 1, at 619-20.

<sup>21</sup> The Policy Inst. for Fam. Impact Seminars, *supra* note 12, at 2.

<sup>22</sup> *Id.* at 3

time, while others may need to be involved with only one to two, this may not necessarily reveal differences in parenting ability, simply in capacity. Families that have cars may be able to do more. We must be thoughtful about our approach to families and about our assumptions. I have often wondered during our various appointments whether the specialists that we see would describe me as having a 'flat affect,' a label I've seen negatively assigned to many parents with whom I've worked to imply that they are not emotionally connected to their children. I now wonder if 'flat affect' may simply mean that a parent is exhausted or overwhelmed; I can attest that this is what it would mean if this label were ever applied to me.

*Principle 6: . . . Families in greatest economic and social need, as well as those determined to be most vulnerable to breakdown, should be included in government policies and programs. Does the policy or program: . . . target efforts and resources toward preventing family problems before they become serious crises or chronic situations.*<sup>23</sup>

Lawyers are most often involved in families affected by the child welfare system after children are removed from their parent's custody. However, several programs have begun around the country in which lawyers specifically focus on providing services to a family to prevent removal.<sup>24</sup> Lawyers can do a great deal of work in the areas of housing, benefits, special education and health care, just to name a few, that could prevent a child from being removed from his or her family. We may want to explore these areas further because the impact of preventative law for our child clients could be tremendous.

The Working Group on the Role of the Family suggested that for children's lawyers, asking systems to do less within a family is "counterintuitive."<sup>25</sup> Just as it might be counterintuitive to us, the idea that the child welfare system might be over-involved in a family's life will probably be a challenge for social service organizations as well. We must zealously advocate within service plan meetings and perhaps even in the courtroom for a system that is less intrusive, but more effective. We need to ensure that we know about all of the services in our communities. We will need to advocate for services that may not currently exist. Services that are community based, that are on bus and subway lines, that do not have long waiting lists, that are culturally sensitive, and that provide several services in one location are necessities to address the reasons for our clients' removal from their homes. We may need to seek multidisciplinary allies to assist us in advocating for these services. The result of this advocacy might be shorter waits for our clients' reunification with their family, or perhaps even reunification in some cases that are currently ending in the termination of parental rights. One certain result will be more parents who are less overwhelmed, and who therefore will be better parents for their children.

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<sup>23</sup> *Id.*

<sup>24</sup> LEIGH GOODMARK, KEEPING KIDS OUT OF THE SYSTEM: CREATIVE LEGAL PRACTICE AS A COMMUNITY CHILD PROTECTION STRATEGY (2001).

<sup>25</sup> *Report of the Working Group on the Role of the Family, supra* note 1, at 619.