Alexandra Roark has worked on all sides of the child welfare system in Massachusetts for over 20 years. She has a comprehensive, full understanding of how this system works and how it fails. In her current position, as an attorney for the Committee for Public Counsel Services (CPCS), Alex works tirelessly to recruit and train attorneys to serve as independent contractors for children and parents involved in the child welfare system. Her efforts have helped reduce the wait for counsel to be appointed to parents and children, helping families reunify faster. As Alex’s colleague explains, Alex is dedicated to ensuring all parents and children receive zealous representation. Her commitment to this cause means that “she always finds a way” to fight for families.

“As an attorney in the child welfare system, you need to make sure each case gets the time it deserves because there is a family at stake.”

By: Katie Carden, Villanova Law Charles Widger School of Law, J.D. Candidate 2021
What is something interesting about this Reunification Hero?

According to Alexandra’s colleague, Alexandra has been a devoted Minnesota Vikings Fan “through thick and thin (and it has been mostly thin). It probably has more to do with her love for the color purple than the team composition, but she defends the Vikes just as zealously as she does her clients. She is anything but a fair-weather fan!”

What made you interested in child welfare? What types of positions or roles have you had within the child welfare system?

I was sworn into the Massachusetts Bar at the end of 1994 and started taking child welfare cases in 1996. This is just when the Massachusetts Juvenile Court was starting to get up and running, and it was the first time that Massachusetts had dedicated Juvenile Court Judges. Child welfare and juvenile cases were called “kiddy cases”, no one wanted anything to do with us. These cases deserved so much more attention and importance than people were giving them.

After being certified by the Committee for Public Counsel Services (CPCS) (the public defender agency for Massachusetts) to represent children and parents in child welfare cases, I started by just covering a few cases. I first handled child welfare cases for about a year and a half as an independent contractor. This was great work, but it was tough. Because I was just an independent contractor, I was not on CPCS staff, had no benefits, and had to use my own office space and malpractice insurance. I was then recruited by the Massachusetts Department of Children and Families to come to the other side and represent the department in the child welfare system. At the time, this seemed like the logical step to take. I was looking for a full-time position with benefits. I was the Assistant Regional Counsel for the Massachusetts Department of Children and Families (DCF), working in a very busy court in Middlesex County. There were only two to four DCF attorneys at the time and I had a caseload range from 80 – 120 cases. Soon after I joined DCF, we transitioned to our own juvenile court site. Things got very busy, very quickly. I did this work for about eight years.

My mom was diagnosed with Ovarian Cancer, and I took a break from work to dedicate my time to that cause. My mom lost her battle, but I am grateful that I got to spend that quality time with her. After my two-year hiatus, I came back into the defense side of the world. I started representing parents and children again in child welfare cases. I did this for about eight years in private practice. Five years ago, I was brought into the Administrative Trial Panel Support Unit for the Committee for CPCS Children and Family Law Division. Given that these cases are the equivalent of a civil death penalty for families, you cannot underestimate the importance of the stakes involved. The reward of this work is invaluable and comes in different forms. We are rewarded when our clients are successful.

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Can you explain the unique child welfare system in Massachusetts and your role within that system?

We have a very unique system in Massachusetts, it is a hybrid system where parent and child representation in child welfare cases are provided by CPCS staff attorneys and a private panel of trained independent contractors. 20% of the caseload is assigned to our staff offices and attorneys and 80% of the caseload is covered by independent contractors. My unit oversees this private panel of independent contractors who are certified to represent children and parents in child welfare cases.

I oversee, train, certify, and mentor all attorneys in our panel who are independent contractors – we have about 820 independent contractors across our state. My office consists of four staff attorneys and I am the most senior. We all take assigned counties and I am the liaison for counties in central and western Massachusetts, including the largest counties affected by the attorney shortage, Worcester County and Hampden County. If you're a newly certified independent contractor, you can only accept cases in one county. We pair new attorneys with mentors in each county to provide support and guidance.

Why did you return to parental defense after your two-year hiatus?

I didn’t really feel like I was making as much of an impact as an attorney working for the state. I didn't have much control over my cases. I wanted to have an opportunity to make more of an impact on each case. When you have 80 – 100 cases, you're just triaging. It really felt just like being a firefighter, you're constantly working in “panic” mode, there is always a caseworker outside each door, waiting to consult with you. If you take the converse of that, you can really have a much more meaningful impact and improve the outcome when you have the necessary time to devote to the work. As an attorney in the child welfare system, you need to make sure each case gets the time it deserves because there is a family at stake.

What is the certification process for independent contractors?

Attorneys are certified to represent parents and children at the same time. In Massachusetts, children and parents have the right to counsel at the time of removal. Attorneys participate in a seven-day long certification class. At the end of class, we oversee a one-day mock hearing and we have faculty and staff who play the roles of clients, judges, or DCF attorneys. Each of the attorneys coming through the training are assigned to represent a mother, father, or child in this mock proceeding.

How do you recruit attorneys to be independent contractors for CPCS?

This is the most challenging part of my job – recruiting and retention. We do a great job of training our attorneys, but it takes work to get them in the door and keep them. Amy Karp, our Director of Training, and her entire unit have a phenomenal training program that she developed, it’s top-level. We train attorneys and provide them with great skills and tools to go out there. But they’re independent contractors who do not have the benefits and bonuses that come with a payroll salary job. Within 2-3
years, we lose lots of these people to DCF or other employment that has more traditional employment stability. Something that’s helped recently is that the state is now requiring newly sworn in bar admittees to attend a class called, “Practicing with Professionalism”. I usually make an appearance at these sessions and the Massachusetts Bar Association lets me sneak in for about 10-15 minutes. I do a brief presentation on why it’s so great to come and work with us. I usually get 3-4 people per session who at least seek out additional information about becoming an independent contractor. We also attend swearing in ceremonies and hand out flyers as people are coming out the door.

What are some of the strengths of the child welfare system in your area?

A strength is that we have a hybrid model of representation, that our attorneys are trained to represent both parents and children, and that children have a right to counsel right at the time of removal. We also have direct client representation when representing children, not best interests. If a child is able to make a reasoned decision, for example, if a 7-year-old states that she wants to go home with Mom, we report that child’s position to the judge. We advise the child of all information we can give him or her in an age appropriate manner, but at least the judge can hear the child’s voice. If the child is pre-verbal, we will use a flow chart of tools to assess what the child’s opinion is and to then make a substituted judgment on behalf of the child.

The hybrid system works really well. I think its beneficial because by representing both parents and children, attorneys become well-rounded. This gives you a real feel for the whole picture and all of the unique challenges. Typically, attorneys do not have say in whether they want to represent a child or parent. We also have attorneys certified to do criminal delinquency matters. These attorneys will often represent children who are dually involved in the juvenile criminal system and the child welfare system. There is this impression that representing children is easy and it is absolutely not.

What are some of the weaknesses?

The timeline for adjudication is extremely long. Often, adjudications don’t happen until 12 – 18 months within the case. The judges don’t believe they have the power to do anything until adjudication or permanency hearing, where they have the power to make certain decisions or orders. For a long time, judges felt like there was nothing they could do to enforce the department to make reasonable efforts on behalf of families or to provide services. The judiciary wasn’t challenging the department or forcing them to do their job. Additionally, the department would often file a petition with the court without asking for custody. This was a strong-arming tool that DCF used to bring families into court when there was no valid reason to. These are called “access cases” because the department would get access to the family without there being a valid reason for them to get that access.

In a monumental case, In re Care and Protection of Walt, Chief Justice Gants wrote that the department is required to make reasonable efforts at every stage of the case, not just at the time of
removal and time of trial. The holding in *Walt* is that the department is required to make reasonable efforts at every stage of a child welfare case and removal is only appropriate if imminently necessary to protect the child. This ruling was so important because it forced the judges to hold the department accountable and strongly discouraged “access cases”, and they have now diminished significantly.

Another weakness in our system is that after a removal by DCF, parents and children are only provided once a week (sometimes less frequently than that) supervised visits at the DCF office. I have attended national trainings where I learned that some states have statutes creating a presumption of unsupervised parenting time at the beginning of the case, unless DCF can prove there is a significant risk of harm to the child. It would be so helpful to the families, if the default visitation schedule began with unsupervised visits, understanding of course that there are some cases where the safety of the children requires supervised visitation.

Our system is also woefully underfunded. The hourly rates of pay for private attorneys on our panel are controlled by the state legislature. Unfortunately, our legislators do not understand the significance and importance of the work being done on behalf of parents and children in this Commonwealth. Unless and until there is advocacy and education to that end, our attorneys will continue to be underpaid and undervalued.

**What is one thing you recommend in working with parents to increase the likelihood of reunification?**

For attorneys doing this work on behalf of parents and children, approach the work with a multi-disciplinary lens. Our attorneys have the ability to get funds for indigent court costs and we encourage all of our attorneys to hire an independent social worker or expert to do a plethora of things on the case, such as a needs assessment, psycho-social evaluations, and suggestions for action plan tasks for the department. The department can throw 20 tasks at a parent in her action plan and the parent might not be able to achieve any of those tasks because there is no collaborative approach. Parents are supposed to be a part of the planning process with the department, they are supposed to negotiate with the department, this never happens. It is so important to approach parent or child representation as multi-disciplinary legal defense team. Instead of being told what to do, parents must have a say in what they want to do or what they can do. If parents have a say, they can communicate what they want or need.

About three years ago, we created the position of Social Work Coordinator. This coordinator, Meg Grant, works in my office and does trainings for the attorneys on how to hire social workers or experts and provides a list of approved vendors for the state. She makes the process very easy for attorneys –
they just file a motion for funds, call Meg and say, “I’m looking for an expert on bonding or child development for children with ADHD”, and she’ll help identify which expert they need and hook them up with several people on state-approved list. We have had great success since adding this position, she helps facilitate critical collaboration.

All of the staff attorneys have social workers on staff. So, this Social Work Coordinator helps to create an equal playing field for the private bar to have the same support to achieve successful outcomes for our clients. We need more support for our independent contractors. Staff attorneys have a reduced caseload, but private attorneys have a much higher caseload cap and it is very difficult for us to effectively monitor this, but we are trying to change that.

**What advice would you give to other professionals who work in child welfare? Or to individuals considering working in child welfare?**

“Approach these cases with open ears and an open mind. If you pre-judge, you won’t be effective in reaching the family or making a connection and helping them achieve goals they have for themselves.”

What advice would you give to judges, agency directors, legislators, or governors about how to improve the system?

Agency directors and judges need to focus on prevention services. The Family First Prevention Services Act was created for a reason. It gives us the opportunity to really make a change in how child welfare cases are handled and make a change in the ultimate goal for the family and the trajectory for how this case ends up. If handled appropriately, with prevention services and supports in place, the family is destined to be successful. If we don’t use prevention services, we’ll have an agency that has a lot of children in foster care, there will be no permanency for these children, and they will lose life-long connections. These are not the outcomes we want for our families.

If we have a successful client, this provides good morale for attorneys working for the client. Reunification improves the quality of outcome for everyone involved. The truth is we need a more collaborative system and foster parents and parents to be at the table together and be a supported network.

June is National Reunification Month
For more information see www.ambar.org/nrm
Are there any programs or practices that need to be modified and are not effective in reunification? Or any programs that need to be added to make reunification more successful?

A lot of parents grew up in our system. The child welfare system and poverty are cyclical and generational. Many of these parents never had the tools to educate themselves on managing finances or handling children’s behavior. We need parent education programs in homes so that they can practice it and have hands-on experience with the guidance of a good teacher or clinician. We also have parents struggling with substance abuse issues and this goes hand in hand with mental health issues. We need to really look into having these joint disciplinary services together, with programs put into the homes.

We do have one family drug court out in Berkshire County. Family Drug Court is a pilot project that seems to be very successful. I’m hoping these courts can be implemented across the state. The model they’re using seems to get the “buy-in” from the parent from the beginning, which is so important.

I was in Florida at a DCF summit in December doing a presentation about our model. I learned that a county in Florida has a great program where they bring in a Behavioral Health Specialist as part of their team when dealing with children who are newborns to age seven. The foster parents and parents are brought together from the beginning of the case with this specialist and the caseworker to talk about the child and what bonds the child has or what is important for the child. This creates a supportive network for the parents and children, and many of the families continue to have a relationship with the foster parents after reunification. This program is great because the Behavioral Health Specialist ensures everyone is working together, everyone involved works as one cohesive unit.

Do you think there are any public misconceptions about the child welfare system? If so, what are they?

Most of the public perceives parents in child welfare cases as horrible villains. The case may be the parent is struggling with mental health issues, substance abuse, or lack of support or education on how to be a parent. The public only hears about the dead baby cases. The media only covers the worst and most horrible tragedies. The public learns nothing about the majority of our cases and never hears about the success stories of how hard a parent has worked to regain custody of her/his child(ren).

Was there any experience that had a big impact on the way you think about reunification?

I was appointed as successor counsel for three of the youngest siblings in a large sibling group. At the time I became involved with the case, it was heading towards a termination of parental rights trial and the siblings had a very close bond, with the oldest siblings insisting on sibling visits even when the parents (mother and two separate fathers) were unavailable to attend visits. The mother had a significant history with DCF, several removals over the years, a long history with substance use disorder as well as periods of incarceration. The goal for my clients was adoption and they were placed in pre-adoptive homes. The siblings who were over 12 were not in support of adoption, as is required by state law, so their goal was either guardianship or some other form of permanency.

There were several delays in the case due to the parents’ incarcerations and one parent’s
immigration status and during this time the mother slowly began to engage in treatment and made significant progress towards reunification. Eventually, some of the older children were returned to her care while she agreed to an open adoption for the younger children because she truly believed it was in their best interests given the bonds they formed with their pre-adoptive family. As we had been negotiating the open adoption agreements, the older siblings were extremely concerned about their mother’s decision not to fight for the younger children. The pre-adoptive family decided not to pursue an adoption and gave their notice that they wanted the children removed from their home because they [the pre-adoptive family] were relocating out of state. Mother seized this opportunity, with the support of the rest of the children, and regained custody of all seven children. This case changed the way I think about reunification because it highlighted to me the significance and importance of the sibling connection. If the oldest child had not been such a strong advocate against Mother’s decision to agree to an open adoption, Mother may not have had the courage and determination to have fought for return of the youngest children.

**Do you have an example of a parent who persevered to reunify with his or her children?**

I represented a father who, along with the mother, was involved in substance use. The parents were arrested and had their 3-year-old child with them at the time of arrest. The child was removed from their care and Dad immediately felt like he had hit rock bottom. He promised that he’d do whatever was needed to get his child back. There is a lack of programs for fathers in recovery who are hoping to have their children placed with them. There are programs for mothers, but not nearly enough for dads. This father completed a detox, sober program, took parenting classes, got into his own sober living home and we were able to have the child placed with Dad. He reached out to community resources to help him furnish his apartment for his son. This father focused 100% on his son and was able to successfully reunify. Since reunification, this dad has gone on to lead the fatherhood group in his program and he frequently sends me updates on how his son is doing.

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