How Social Workers Can Support Parents’ Attorneys
by Diane Boyd Rauber

In child welfare cases, many key events happen outside the courtroom. For example, the initial investigation, removal of the child from the home, and involvement in services by the child and parent(s) all take place without direct court involvement.

Most attorneys representing parents in child welfare cases would probably agree it is difficult to achieve the highest level of out-of-court advocacy for their clients. Large caseloads and a lack of compensation for out-of-court time contribute to this deficiency.1

Child welfare agency caseworkers also have large caseloads, with a high turnover rate. Often, they are focusing on the child’s needs. It is difficult for these caseworkers to adequately assist parents who may need help in several areas, such as housing, transportation, counseling, education, and treatment. Without adequate assistance, parents are hindered from reunifying with their child in a timely fashion, if at all.

To address this need, some states, counties, and law firms/clinics are using the services of social workers to provide needed support and improve the overall representation of parents in child welfare cases. Unlike the child welfare caseworker, a social worker teamed with a parent’s attorney can look beyond the usual resources of the child welfare agency, tailor services for an individual parent, and conduct the necessary follow up to ensure the service provider is meeting the parent’s needs. The social worker will have more time to spend with the parent, helping them understand the child welfare process. This article discusses the use of social workers by parents’ attorneys, and offers insight into a relationship that can help parents reunify with their children more quickly.

State/County Programs
Washington Office of Public Defense, Parents Representation Program
Washington State is at the forefront of teaming social workers with parents’ attorneys. In 2000, the Washington legislature provided $500,000 to the Washington Office of Public Defense (OPD) for an enhanced parent representation program in two juvenile courts. The pilot project had five goals: (1) reduce the number of continuances requested by attorneys; (2) set maximum caseload standards for full-time attorneys; (3) enhance defense counsel practice standards; (4) support use of investigative and expert services; and (5) ensure implementation of indigency screenings of parents, guardians, and legal custodians.2 As the result of positive pilot evaluations,3 the Washington legislature made the Parent Representation Program permanent in 2005 and it has expanded to 25 of 39 counties, with a future goal of implementing it statewide.

Generally, OPD contracts with private attorneys, law firms, and public defender agencies who compete based on their qualifications. OPD does not direct the attorney’s work, but “sets manageable caseload limits, implements professional standards of practice and provides access to expert services,”4 (Continued on p. 146)
independent social workers and case support services, so that program attorneys can better assist their clients.”

Attorneys involved in the pilot project reported social worker/investigator assistance was one of the resources that “most impacts case outcome.” OPD currently contracts with one social worker for every four attorneys. Social workers are involved in approximately 10 percent of cases. The attorney determines which cases would benefit most from the social worker’s help, typically in more complicated cases or cases where clients need additional help accessing and participating in services.

According to Michael Heard, OPD Parents Representation Program social services manager, the social worker’s responsibility is to “find barriers and solve them.” To guide its social workers, OPD instituted standards (see box, Social Worker Practice Standards) addressing five major roles for social workers. These roles and specific duties within each include, but are not limited to, the following:

- **Parent Advocates**
  - Help parents assert their rights.
  - Advocate for services and visits.
  - Communicate with service providers, agency caseworkers, and CASA/GALs regarding parents’ progress.

- **Witnesses**
  - Act as fact witnesses.
  - Prepare court declarations explaining aspects of the case to the court.
  - Provide home visits or other contacts as part of court-ordered safety plans.

- **Community Child Welfare Participants**
  - Participate in community child welfare and court improvement meetings.
  - Provide information to community groups about the parent representation program social worker.
  - Attend child welfare conferences.

The standards address all aspects of the relationship between the social worker and the parent client, as well as the relationship between the social worker and the attorney. Social workers are treated as “nonlawyer assistants,” and independently and objectively assess cases for attorneys. They are expected to meet and communicate regularly with clients, focusing on progress, performance, and barriers to services.

They share their insights and assessments of clients’ progress, and give attorneys monthly service updates about services performed and progress. The standards also address professional relationships with child welfare agency social workers, service providers, CASA/GALs, and other professionals.

Social workers must have at least two years of paid social work experience before being eligible to
contract with OPD. New social workers participate in orientation training, and current social workers must participate in 48 hours of continuing education per contract year. For oversight, they also participate in monthly social worker conference calls and quarterly reviews with the OPD social services manager. Social workers with a full-time contract carry at least 28 cases, and are encouraged not to accept more than 33 cases.

One OPD contract attorney reported using the social worker for both preadjudication and post-trial work. For preadjudication work, the social worker assesses the case from the agency’s perspective to make trial preparation easier. The social worker can point out where the agency has not followed its policies. In the “agreed” or post-trial dependency cases, the social worker helps clients connect with services, negotiate roadblocks, and deal with the child welfare agency.

Most valuable to the attorney is the social worker’s ability to investigate, follow up on services, support the client, and act as a buffer between the client and the agency. While the attorney sees no “real downside” to using social workers, she noted sometimes having “a difference of opinion on a case” because they are “coming at things from a different stance.” Regular communication and reminders about being on the defense side of the case can minimize conflict. Noting that it would be hard to find time to do the follow-up work of the social worker, the attorney views the services of the social worker as a “great” addition to a case.

Amelia Watson, OPD Parents Representation Program managing attorney, agrees with this assessment. Although attorneys who have never had the benefit of a social worker to assist might initially be wary, once they experience the benefits they consider it an integral part of their work. While social workers often help with obvious tasks like accompanying parents to hearings and meetings, their assistance can and should be more nuanced. For example, the social worker can develop an alternative safety plan that might allow the child to remain safely at home or identify expert witnesses.

Some social workers develop expertise in certain areas, such as substance abuse treatment or working with developmentally disabled parents. According to Ms. Watson, social workers help “move cases forward... at times the agency is speaking a different language, but with the help of the social worker, the attorney and the parent has a translation.” Furthermore, parents often “have a sense of urgency, but not a sense of hope so they can work through their case.” In Washington, social workers are helping parents gain a sense of hope.

The North Carolina Office of Parent Representation, Indigent Defense Services (IDS), also has two counties using social workers. In North Carolina, the Office of Parent Representation developed a draft “Motion for An Order Authorizing Funds to Retain the Services of a Social Worker Expert” and corresponding “Order for Funds to Retain the Services of an Expert” for attorneys to request available court funds for this purpose.

One attorney in Durham noted how difficult it was to make all agency meetings, and the agency would sometimes cancel meetings when attorneys accompanied parents. The parent’s social worker can attend meetings, be aware of any imminent problems, and support the client. In addition, the client does not have to wait for the agency social worker to make referrals; the social worker makes referrals for parenting classes, evaluations, and other services. The social worker sometimes attends visits, as-

(Continued from p. 146)
sists clients with housing, and helps them find employment. As the attorney noted: “Bottom line is that she has the same or better training as the [agency] social worker and our clients don’t have to wait to access services . . . . These are things I either was not trained to do as an attorney and certainly did not have the time to do. Even if I could have found the time, I don’t believe that IDS or retained clients would have wanted to pay me an attorney’s rate to do them.”22

Another North Carolina defense attorney, working in Mecklenburg County, noted that having a social worker helped her focus on legal issues. “The social worker assists greatly in addressing the day-to-day issues with the clients that inevitably come up like transportation problems, medication issues, appropriate communication with their service providers, and [agency] social workers. My social worker really works hard on our clients’ behavior, appearance, and demeanor when in and out of court. . . . [I]t helps them understand how a negative attitude does not help them get the things they need or want. . . . She also helps them learn how to communicate with the foster parents in our shared parenting classes, which results in them being able to have more time with their children.”23

In addition, the social worker helps find appropriate family placements and communicates with those family members about how to help the client. Recently, the social worker convinced the agency to continue working on a family placement for the children of an incarcerated client after a home study was denied. The family member cooperated on making the needed adjustments and the children were able to transition to the placement as desired by the client.24

Other Programs
A few nonprofit law firms are using social workers as part of a team to

Social Worker Practice Standards
The Washington State Office of Public Defense (OPD) developed standards to guide the social workers employed through the Parent Representation Program. The standards help social workers understand their role within a case and their relationship with the parent’s attorney, who is the legal advocate. The standards address specific duties of social workers, and their obligations to the client and the attorney. The mission of the social worker piece of the program “is to strengthen and empower families by providing high-quality, strength-based, compassionate, accessible, nonbiased, culturally relevant, and comprehensive social work services to parents in dependency and termination proceedings, thus allowing them to participate fully and meaningfully in their case planning.”

The standards emphasize the following core values of program social workers:

- All parents have strengths.
- Whenever safely possible, the Constitution establishes that parents be designated to raise their children.
- All families need and deserve support and encouragement. How much and what kind varies throughout a family’s lifespan.
- All parents have different, but important skills.
- Parents who fully understand their options can make better choices.
- All parents have hopes, dreams, and wishes for their children.
- All families are resourceful, but not all families have equal access to resources.
- Diversity is an important and valuable reality in our society.
- All families should be assisted in ways that help them maintain their dignity and hope.
- Timely and effective services work for families.
- All families should be partners in their relationship with service providers.
- Services are provided so families can reach their goals, and are not themselves a measure of success.
- In some situations, it may take time for parents to understand their underlying problems, therefore patience rather than judgment is a key component in successfully engaging parents to empower themselves.
- Through the act of parent advocacy, parents will feel supported and understood.

The social worker standards cover these topics:

- General qualifications and continuing education
- Professional duties and roles
- Professional relationships with parent representation program attorneys
- Professional relationships with clients
- Professional relationships with child welfare professionals
- Caseloads and contract hour distribution
- Social worker practice oversight
- Code of ethics
Tips on Working with a Social Worker in Your Legal Practice

- **Set the expectations and understand responsibilities.** At the outset of the case, you and the social worker should understand your respective roles and tasks. Setting clear guidelines for when and how often you will communicate with each other, as well as your client, can prevent duplicating efforts or overlooking an important aspect of the case.

- **Ask frequently for the social worker’s input and opinions.** Although as the attorney you are the one setting the legal strategy in a case, the social worker has important information to help you as you develop that strategy. Use the social worker as part of your “defense team.”

- **Don’t just send the social worker to meetings you can’t attend.** The social worker has the expertise to do much more than attend meetings. For example, the social worker can investigate services, create alternative safety or treatment plans, and help you understand the case from a different perspective. Be sure to use the social worker to his or her greatest potential.

- **Don’t let the social worker’s interaction with the client replace your own.** Having a social worker involved in your case can help you accomplish more on behalf of your client. However, you still have an obligation to communicate with the parent and independently assess the case.

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improve parent representation.

**Center for Family Representation**
The Center for Family Representation (CFR), founded in 2004 in New York City, uses the Community Advocacy Team (CAT) approach to serve families. The CAT approach provides each family with a team of professionals to help navigate the case. The team includes an attorney, social worker, and a parent advocate. Social workers accompany parents to meetings and help them stay engaged in services. Social workers find enhanced services for clients, provide individualized case management, and help ensure parents have meaningful visits with their children.²⁵

**Detroit Center for Family Advocacy**
Similarly, the Detroit Center for Family Advocacy (CFA), established in 2009 by the University of Michigan Law School, uses an attorney, social worker, and parent advocate to assist families. The role of the social worker is to help families access services and provide case management. Because CFA uses parent advocates in its clinic, the social worker and parent advocate work in tandem to help the parent. The social worker makes referrals and helps the client access the services; the parent advocate helps the parent on the day-to-day compliance issues.

CFA handles two types of cases. In a prevention case, a parent or caregiver is being investigated by the child welfare agency for possible child abuse and neglect. CFA determines if legal assistance to a parent, guardian, custodian, or extended family member will help that person provide a safe and stable home for the child, and provides the necessary assistance to the family. In a permanency case, the child is already in foster care, but legal services to the birth parent or other potential permanent caregiver can remove obstacles and allow the child to exit care and return to the birth parent or move into another permanent placement.

Jamila Weathers, CFA social worker, notes her role is to help the client access services and provide advocacy in various meetings (e.g., agency, housing, education meetings). She makes home visits and provides psychosocial assessments. She serves as the “broker” who understands what the client needs and informs the agency about those needs.²⁶

CFA focuses on preventing children from entering foster care. The attorney works on whatever legal means might prevent such action; the social worker advocates for the services to keep the children home. For example, if the child welfare agency is threatening to remove the children because the client is faced with eviction due to landlord issues, the attorney may initiate a proceeding based on landlord-tenant law, while the social worker focuses on alternative housing options.²⁷

**Use by Private Attorneys**
In Connecticut, the Commission on Child Protection, Office of Child Protection Attorney, oversees the representation of parents and children in dependency proceedings. The commission contracts with private attorneys and firms to provide parent representation. The commission establishes training standards, requires new attorneys to participate in a mentor program with an experienced attorney, and reviews performance based on Standards of Practice for Lawyers Representing Parents in Child Protection Cases (based on the ABA Parent Representation Standards).²⁸

Some private attorneys in Connecticut hire social workers for their cases. For example, one attorney providing representation to parents reported hiring social workers to assist her.²⁹ Using a social worker provides her clients with another avenue for communication, offers insights regarding services, and allows her to focus on the legal demands of the cases. She has a contractual relationship with the social worker, with compensation coming from funds available through the Commission on Child Protection or
out of pocket. She finds it well worth the expense; having a social worker results in a “better run practice.”

How to find a social worker? She looks to university masters’ programs and networking in the private sector.

Mandated Reporting
A common question is how mandated reporting requirements apply when social workers team with parents’ attorneys?

Social workers and attorneys need to understand not only the prevailing law of their jurisdiction, but also any ethics opinions that may address the issue. No one answer will fit every situation, but practical lessons from current programs suggest concern about these reporting requirements does not outweigh the benefits of employing social workers in this capacity.

The NASW has written about several models that describe the social worker/attorney relationship, and can be implemented to try to avoid compromising situations. For example, under the “employee” model, the social worker is considered an employee of the attorney or law firm, with the argument that the social worker is covered by the same confidentiality rules as other nonlawyer employees.

The NASW notes that this approach may not completely address a social worker’s ethical conflicts. Other models, such as the “notice” model and “confidentiality wall” model, may address further ethical concerns. For example, under the “notice” model, clients are informed about the social workers’ reporting obligations before being offered services. In Washington State, social workers in the Parent Representation Program are required under Standard 6.3 to provide informed consent about, among other things, mandated reporter status.

In the “confidentiality wall” model, the attorney or other nonmandated reporter conducts the initial screening to rule out abuse before involving the social worker. CFA uses its parent partner to conduct intake interviews in prevention cases, where the children are still in the home and preventive services are being offered; the social worker conducts intake interviews in permanency cases, where the children have already been removed from the home, making it unlikely the reporting issue would surface.

Conclusion
A parent in Washington State, who reunited with her child after receiving the assistance of an OPD social worker, noted: “Kids aren’t the only ones who need help.”

Programs providing assistance to respondent parents in child welfare cases beyond legal representation, i.e., social worker services, are seeing higher and faster reunification rates and more satisfied clients. For example, in Washington State counties with Parent Representation Programs in 2005 and 2006, there was a 10.4 percent increase in reunifications after the program began, as compared to a .7 percent decrease in counties without a program.

Achieving successful reunification in a timely manner can result in savings to counties and states, making the expense of social worker services well worth the cost.

What Parents Say about Their Parent Social Workers
“Since the day we met [our social worker] everything got a little better. He made unbiased observations; he would come to weekly visitations and observe, not interfere. Afterwards, he would talk with us and help us with things we needed to do for social services. He went to court hearings and meetings with us. He replied to our e-mails within 24 hours. He let us know what to expect, what the next steps would be so we could address things quickly and get our child back faster. People need an outlet, they need someone who won’t condemn you. Kids aren’t the only ones who need help.”

“I ended up in prison; my social worker set up phone time for me with my children and wrote me letters to keep me informed. He went to drug court with me and was an all-around support. He always called me right back. I graduated from drug court, got my GED, and have a good job. I will cherish him the rest of my life. These were my kids and my life, and I probably wouldn’t have made it without him.”

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two parents from Washington State.

Endnotes


3 Between 2000 and 2005, independent evaluators completed four evaluations of the pilot. Three evaluations showed increases in family reunification. More recently, OPD examined reunifications and case resolutions in the 15 counties where the Parents Representation Program was implemented in 2005 and 2006. In those counties, there was an increase in reunifications of 10.4 percent after the program was initiated, representing a 39 percent rate of change in reunifications. By contrast, in 14 counties without the program, there was a .7 percent decrease in reunifications, representing a -2.1 percent change in reunifications. Washington State Office of Public Defense. Reunification and Case Resolution Improvements in Office of Public Defense (OPD) Parents Representation Program Counties. Olympia, WA: Washington State Office of Public Defense, February 2010. <www.opd.wa.gov/Reports/Dependency%20Termination%20Reports/100325_ReunificationOutcomes.pdf>


5 Bridge & Moore, 2002, 34.

6 Telephone interview with Michael Heard, MSW, social services manager, Washington State OPD Parents Representation Program, August 17, 2010.

7 Ibid.


9 Ibid., Standard 5.1; 5.5.

10 Ibid., Standard 6.2.

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Issue Brief—Health Screening and Assessment for Children and Youth Entering Foster Care: State Requirements and Opportunities

Early assessment and intervention are critical to the well-being of children and youth entering foster care—a population with a high prevalence of physical, behavioral, and oral health needs. This issue brief reports on a 50-state survey by the Center for Health Care Strategies (CHCS) to understand child welfare agency requirements for health screenings and assessments upon a child’s removal from the home. The survey found:

- Virtually all states require an initial physical, behavioral, or oral health screening, and more than half of states mandate all three;
- State-required timeframes for completing health screenings vary significantly, and do not consistently reflect nationally recognized guidelines; and
- State mandates for follow-up health assessments are less rigorous than for initial screenings.

Findings suggest opportunities for states to strengthen screening requirements to more effectively guide care management and support better health outcomes for the high-risk foster care population.

Access the issue brief at CHCS’s Web site: www.chcs.org/publications3960/publications_show.htm?doc_id=1261185