Jessica Martinez

Jessica Martinez has transitioned from an experienced private criminal defense attorney, to a Dependency parental attorney in Santa Barbara County with a caseload of about 250. Jessica supervises the Santa Barbara North County Defense Team (Dependency), a group of independent contractors who represent parents involved in the Child Welfare System. Jessica stresses the importance of collaboration amongst all attorneys representing the various parties in a Child Welfare case. Jessica’s colleague at CASA of Santa Barbara County highlights Jessica’s focus on teamwork, explaining that she has “unique skills,” including a “great sense of humor,” that works to encourage team effort and get everyone “on the same page.” She “works with the assigned social worker to make sure goals are reasonable and achievable.” Jessica is persistent and dedicated to her clients, she makes sure they know that she is there for them, fighting for them every step of the way. Jessica’s practice is centered around compassion. Jessica is committed to ensuring that every parent, no matter what they’ve been through or have been accused of, is treated with dignity and respect. Jessica is a zealous advocate for her clients who sees the value in working together to guarantee that families successfully reunify.

By: Katie Carden, Villanova University Charles Widger School of Law, J.D. Candidate 2021
How did you get involved in parental defense work? What made you interested in the child welfare system and representing parents?

I come from a really small town of about 5,000 people. My father and I had a very tumultuous relationship growing up. He was a drug addict. Ultimately, my mother and father divorced, and my mother married the man I call my father today. My father served as the Chief of Police, and he always treated every person, no matter what crime they were convicted of or what they were involved in, with compassion and respect. It was his compassion and love for people in general that made me want to work within the Child Welfare system.

As a law student, I originally interned with the District Attorney’s office. One day in the office I overheard the attorneys and staff referring to the families in their cases as case numbers and not people. I realized then that I couldn’t do this. Every person, regardless of their circumstances, should be treated with dignity.

I did criminal defense work for a while, and I was eventually approached to begin taking Juvenile Dependency cases as an independent contractor for the Santa Barbara North County Defense Team. When I said yes to the job, I was sent to a two-day training in Anaheim. It was like being plopped in the middle of Paris without speaking any French. If you want to represent parents or children in Child Welfare cases, you need to complete a required number of hours focused on Dependency law. I continue to go to these trainings every two years. It’s a really great training opportunity because you attend with CASAs, social workers, judges, and County Counsel. Everyone participates and we focus on figuring out how we can best collaborate on these cases. Now, I focus almost exclusively on Dependency law. I am still a private criminal defense attorney, but because of my caseload size, I haven’t been able to take any private clients. I have a caseload of about 250 clients involved in the Child Welfare system.

I work in Santa Barbara County, which is divided into two regions – North and South county. Most of the Child Welfare cases are in North County. North County has many more low-income families. In South County, you have people like Oprah or Ellen DeGeneres living there. The disparities between North and South County are huge, and you can see it. Because of the huge socio-economic differences between the two regions, there are exponentially more Child Welfare cases in North County. I wish we could have more staff, but we don’t. I supervise about three other attorneys on my team. We have a really amazing group of attorneys on our team who come from all different walks of life.

Is there a particular case that sticks out to you that really demonstrates a parent’s perseverance and strength?

My favorite reunification story is one where the parent not only showed tremendous progress and growth, but it also ended up being a humbling learning experience for their entire family. It was inspiring to witness the family’s progress firsthand. In this case, both parents had drug issues, and the mother of my client (the mother) happened to be my old high school librarian, who frankly had a reputation for not being super friendly. When I saw my client’s mother, she recognized me immediately, and seemed
mortified, but I reassured her that I was on her side, with no judgement; I could see what a humbling experience it was for her to have her own daughter struggling and involved with the system. My client did an amazing job working her case plan, staying clean, and even separated from her husband for the best interest of her children, and more importantly, for her own sobriety. My client participated in Family Drug Treatment Court and came back to speak for the graduation. I could see what an amazing impact court involvement had on my client, as well as her mother. The story has a happy ending, because my former client is now employed as a drug and alcohol counselor, working at an in-patient program that allows mothers in recovery to have their children with them, and she is paying it forward.

How are parents appointed counsel in your County?

All of child and parent counsel are independent contractors. The State provided Santa Barbara County a contract to care for parents while they are involved in the Child Welfare process. Through this contract, the County established a program to fund independent contractors to provide representation to parents and children in these cases. When parents become involved in Dependency cases, the judge will ask them if they want representation. If they do, they are referred to my team for counsel. We represent all parents, regardless of their financial situation. Those who have the financial means might pay about $100, but the parents who cannot pay won’t have to pay anything.

Parents’ counsel has taken three pay cuts over the last four years, approximately. Despite that, everyone on my team has continued doing this work. That’s why I love my team. You need to be compassionate and loving to keep doing this work, and to take on the amount of cases we’re assigned. You need to be dedicated and passionate. These pay cuts are disheartening, but my team has not faltered in any of their work.

Can you talk about the Parent Partner Program in your county and how it helps parents successfully reunify?

The parents who overcome their personal struggles and the challenges of their circumstances to successfully reunify with their children are inspirational. Many of these individuals are encouraged to become Parent Partners. We have quite a few parents who reunify with children and then come back and become a Parent Partner and help other parents navigate the system. These Partners act like mentors for the parents going through this process. It’s unbelievable. I remember one parent, years ago who became a Parent Partner as soon as our County implemented the program about five years ago. She still serves as a Partner today. The successful parents who’ve reunified give back to the community. This is an example of our collaborative approach towards reunification. I’ve been able to encourage a lot of my clients to become Parent Partners, and some of them are now being paid to be Partners. This practice has been so helpful to parents.

One of the first families I worked with when beginning my Dependency career was personal, because the mother involved, Michelle, was friends with my sibling who also struggles with addiction. Although I represented the father in that case, it was inspiring to see Michelle working so hard to
maintain her sobriety through our Family Drug Treatment Court Program, which reports to the Court weekly on the parent’s progress. The case also involved domestic violence and sometime later, Michelle came into Family Drug Treatment Court, after a domestic violence incident, black and blue. Michelle left the father to protect her children and herself. Michelle eventually reunified with her children and she has now been a Parent Partner herself for the last five years, helping and inspiring other parents who are still struggling.

In addition to the Parent Partner Program, in 2018, when there was a lack of resources within Child Welfare Services to arrange for enough aides to supervise Court ordered visitation for parents to see their children, I was able to partner with the Executive Director of CASA of Santa Barbara County to have them create a Supervised Visitation Program. Thanks to our collaboration and creative problem solving, CASA was able to get grant funding to create a special visitation room and specifically train volunteers to transport the children and oversee the visits. Visitation is a vital component to successful reunification, because it is where a parent can demonstrate the skills that they have learned with their Parent Partner and through other services, such as parenting classes. If parents do well in supervised visitation, their hours will increase, then gradually move to unsupervised, and overnight, then reunification.

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

In North County, we’ve developed into a really collaborative group. When I first started, it wasn’t like that. Over time, all counsel (for the department, children, and parents) have developed really great relationships – both in and outside of work. We check in on each other and make sure to ask, “How are you doing?” This is a tough field. We’re seeing families being torn apart because of abuse and drug use. You want to make sure everyone involved, even the attorneys, are doing okay. It’s important to have good relationships with all counsel so that we can push forward together to make sure families reunify. Dependency Courts forget that we’re supposed to be collaborative, and some attorneys will get combative with each other. We take the between each other out because we’re already seeing so much ugliness. We want to be supportive on all sides.

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

I wish that there were more services available to parents in our County. We’re a big community, but we’re very limited in resources. People know each other here. We encompass about five different cities in North County. Some areas are rural, so it’s hard for parents to come to drug testing centers that are so far away. And some parents don’t like going to certain testing sites because it’s triggering for them; it triggers them to use if they see many people there who they used to do drugs with. I would like to see the Child Welfare Services Department contract with other service providers besides the one that we currently use.

**Describe the efforts you have made to improve the child welfare practice in your area.**

I’m vocal about how I’d like to see the system improve. I talk to directors and judges. I attend a

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brown bag meeting once a month. At this meeting, all departments come together to discuss what can we do better as a team.

In March of 2019, I went to Sacramento with a good friend of mine who also represents parents part-time. Just the next morning, we found out that the legislature was hosting this open forum. We woke up super early the next morning and drove to Sacramento so that we could speak about the need for parent and child counsel to receive more funding. We waited for hours, lobbied a little bit (it was my first-time lobbying – that was interesting), and then I got a whopping three whole minutes to speak to the legislature. It wasn’t just us at this forum, the heads of many different Departments were there to ask Governor Newsom for additional funding. Dependency was finally called in to speak, we were last on the list. Dependency did end up getting additional funding and it was allocated between counties based on who had the greater need. Unfortunately, I just received an email the other day that the funding is being taken away from us again. We are at the point where we initially started.

What is one thing you do when working with parents to increase the likelihood of reunification?

It’s important to remember that when a parent comes in, regardless of the allegation against them or the reason they're there, they feel downtrodden and beat up. They feel like they're being judged for everything written on those reports, whether they’re true or not. To establish a good relationship, you need to be kind, to genuinely care, to be empathetic – that’s what makes them trust you. Gently counsel parents and encourage them, let them know that they have someone on their side. They already feel discouraged because of what’s happened, they need someone to say, “hey, you’ve made a mistake, you’re human. I’m going to help you through this process.”

I go to parent’s homes. I pick up calls at any time of the day. Unfortunately, about 80% of my clients are drug involved. I think because of my family background and my siblings, who are sadly still using, I am completely compassionate to parents going through this. There is also an added stigma against parents who have substance abuse issues, and unfortunately, many service providers who are supposed to be helping drug affected parents, hold a bias against them. This is just beyond me. The individuals providing these services, the drug and alcohol counselors, were often once addicted themselves. I don’t understand how they can now turn and judge these parents.

I’ve worked really hard to establish good relationships with the social workers assigned to my cases. It’s crucial to try and develop a positive, or at least a respectful, relationship with them so that you can work collaboratively towards reunification. Unfortunately, many parental defense attorneys are really combative. Sadly, those attorneys forget that this is a collaborative effort. Working together, as a team, is most helpful to your client.

What are some of the biggest challenges facing parents trying to reunify with their children?

It’s dependent on the parent. For a parent affected by a substance use disorder, domestic violence, and other issues, the biggest challenge is getting past shame. Also, parents deal with their own childhood
trauma, socioeconomic disadvantages, and lack of support. Parents need an attorney who is compassionate towards them. You cannot go forward and change your life without breaking through their shame regardless of the reason they came into the system. The parents involved in Child Welfare are being judged from the very beginning. It's a difficult process and parents often get discouraged and want to give up. As an attorney, you need to coax parents to come back; “I explain to them that we'll get through this together and I’ll be sitting next to you the whole time.” Different cases require different things and different challenges come up. I try to accommodate different challenges. I have picked up my clients from little tiny towns 30 minutes away from my office because they don’t have transportation. I can’t do that very often, but when I can, I do.

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

If they are able to, I would encourage those considering working in the Child Welfare to observe the Dependency process. I would have them read some of the egregious reports. If they can look at those allegations and listen to those interviews and still be compassionate towards that parent, regardless of whether there was rape, physical abuse, or drugs involved, and still be able to be compassionate, they should explore a career within the child welfare system. If their instinct is to think, “what kind of person is this?!”, then this career path is not for them.

Is there any advice you’d give to judges, agency directors, legislators, or governors about improving the system?

I would like to see more funding for everyone. We are dealing with a very fundamental right, the right to be a parent, and some people don’t understand that. I’ve worked with clients in criminal Court, who have been sentenced to 25 years to life, and that was bearable in comparison to the moment that you told them that, in the eyes of the law, they are no longer a parent. The realization of losing their parental rights, made life unlivable for them. We need more funding that will support reunification efforts, to help preserve and protect the fundamental right to parent your child as well as providing families with adequate services to keep children and families safe.

Are there any programs or practices most effective in helping parents reunify?

Yes! We have great services here in North County. I tell my clients that if they take advantage of these services, they’re going to be the best parents on the face of the earth. We have therapy, substance abuse counseling, parenting classes, and other basic supportive services. The big issue, as I said earlier, is we need more testing sites, and we need more treatment centers in different locations. We need more facilities for mental health treatment and other issues. Money should not be what’s driving these services from being provided, but unfortunately it is and that’s just legislation.

Are there any preventative actions that are most effective in avoiding conditions that lead to foster care?

Yes, a huge strength of our child welfare system is the preventive services. We have an entire unit called the Voluntary Unit. Before we go to court, a good percentage of these families have already been in contact with CWS. The school or family will make a child welfare call, and then an investigation unit goes

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out to the home to determine whether any children need to be removed or if any services can be implemented to prevent removal. If children don’t need to be removed, CWS will have parents come in for a meeting and the voluntary process will start at that point. The Voluntary Unit works with these families and explains to the families, “we don’t want you to get to the point where CWS gets involved.” The Voluntary Unit does things like refer kids and parents to therapy, refer them to substance abuse treatment, and provides limited financial support, i.e. housing. CWS tries to do everything they can before the family gets to the point where children need to be removed. Unfortunately, some clients don’t make it through this voluntary process. Despite this voluntary process, this year we had the highest number of child removals that we’ve had in about seven years.

**Are there any public misconceptions about the child welfare system? If so, what are they?**

There are clear misconceptions and discriminations against parents in the system. Once you’re in the system it’s like you’ve got a “Scarlett letter”. The community’s perception really affects parents’ ability to comply with treatment plans and Court orders. If everyone in the community thinks you’re this horrible person, it’s so hard to stay motivated. “You really get beaten down by people in the community.”

Also, many parents and people in the community refer to child welfare workers as “baby snatchers.” People will take pictures of the social workers and blast their pictures on Facebook, with captions like: “This woman will take your child so watch out.” We’re a small community and people talk. These social workers then have to go out into town with their families, with their face plastered all over the community. This is very rough on the social workers. These workers are just trying to do their job and help these families.

**Is there a case or experience that had a big impact on the way you perceive reunification?**

That’s a little difficult. They are all special in their own way. I have had some cases that have really hurt me when the parent just can’t succeed because of drug use. They all affect me in different ways.

There is one case that’s still ongoing actually. I represent a 16-year-old with the intellectual capacity of a 5-year-old. This client had a baby when she was 15. It is believed that my client’s mother’s boyfriend had sexual relations with my client, and that’s how she became pregnant. Because of her mental limitations, my client has not been able to express who the dad is or even remember having sex. My client, her child, and my client’s mother all came into the system the same day. This was the first time I had a client who was also a minor. When I first was assigned to her case, the social worker kept telling me she (my client) doesn’t talk, she doesn’t talk, she can’t mother this baby. “The thing is, when my client speaks, and she DOES speak, she just has this tiny little voice.” She needed a lot of help and it really took a village to assist her. I met with her CASA, who by chance was a former special ed teacher, and so she walked me through the Individualized Education Plan (IEP) so that I could advocate for her. Unfortunately, a lot of social workers and myself, never have worked with a 16-year-old who is essentially a 5-year-old; so, there are a lot of unfamiliar obstacles that we need to work through. My client is doing well, and I’m hopeful.
What makes you stay in this job despite experiencing pay cut after pay cut and an unbelievably high caseload?

I love my job and I love people and I understand that we’re all human and make mistakes. I love helping my clients and seeing them succeed. In my own life, my family is still struggling today with drug problems. By helping my clients, I feel like I get closer to helping my own family, “one parent at a time” This is a really thankless job, but when a case closes, and a client unexpectedly hugs you for helping them get their kids back, that’s enough. That’s all I need. Every time I see a parent overcome their drug addiction and get their child back, it makes me feel as though I am one step closer to helping my family members who are still struggling.

I think we have such wonderful people that keep coming in day after day, despite funding continuously getting ripped from us. To me, that speaks a lot about their character and who they are. I have wonderful coworkers, including Child’s counsel, County counsel, and CASA.

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