Jessica Salinas-Thomas has served the children and families of Massachusetts for twenty years in the court system there. She has worked as a solo practitioner, working on Care and Protection matters. Additionally, she has also worked as a guardian ad litem in juvenile and family courts, a court appointed attorney in juvenile court and family courts, and as a court investigator. With her extensive experience in representation, Ms. Thomas shares her expertise and serves as a mentor for attorneys working in the juvenile court.

Committed to justice for both the parents and children she represents, Ms. Thomas is a fearless advocate. Her advocacy is “a true profile in courage,” and in a recent case, she “bucked the system’ but maintained true to her attorney mission to zealously represent her client.”

By Isabel MacGuire, University of North Carolina School of Law, J.D. Candidate 2020

June is National Reunification Month
For more information see www.ambar.org/nrm
Tell me something interesting about yourself.
I grew up in a rural town in Vermont and attended Hampshire College in Massachusetts. I speak both English and Spanish fluently. My parents both studied German and my aunt is a Spanish professor. I have a 24-year-old autistic son and a 10-year-old daughter. I am a passionate reader and gardener.

What made you interested in child welfare?
From the start of my career, I was interested in working with women and children. During law school, I took several classes on children and the law and worked as a court appointed special advocate (CASA). Also, as a single mother with an autistic son, I learned to advocate for my own child.

What types of positions have you held during that time?
In addition to my work as a solo practitioner, I have done some work for Kids in Need of Defense (KIND) and the Mexican and Brazilian Consulates, focusing on family law issues. Additionally, I am on the Massachusetts Bar Association's Access to Justice Section Counsel and have just been appointed to the Juvenile and Child Welfare Section.

What was an experience that had a big impact on the way you think about reunification?
Over the course of 20 years, I have had numerous cases where I felt that removal of children from their families could have been prevented had they had the benefit of good social work. I was able to witness cases that were turned around by a compassionate and experienced social worker. However, I witnessed many more cases where families were traumatized by the removal of children where efforts could have been made and were not made to maintain the children in the home. There was often a failure to assist the families to address issues of poverty which are behind many of the removals. These cases all had a big impact on the way in which I think about reunification.

I had one case not so very long ago where I represented a father, who was not a U.S. citizen, was a person of color and did not speak English. My client and I worked together as a team and helped him reunify with his son after a long battle in court against a child welfare agency that was determined to have the child adopted by his White foster parents. In this case, newborn twins were born to a mother who allegedly had substance issues. One twin was killed by the mother’s boyfriend after he discovered that he was not the biological father. Consequently, the Massachusetts Department of Children & Families (DCF) removed the surviving twin from the mother and her boyfriend. The mother of the twins had told the biological father, my client, that he was not the father. After the murder of one of the babies by her boyfriend, she informed my client that he was indeed the biological father. My client presented himself to DCF soon after the removal of his surviving child, indicating that he wanted custody of his son.
The surviving twin reportedly had many special needs, such as requiring a feeding tube due to failure to thrive and aspiration, developmental delays, and gross motor issues among other things. The child welfare agency placed the infant with a White English speaking foster family. DCF made extensive efforts to have the father give up his fight, trying to persuade him that the child was too medically involved for him to parent. They changed the goal for the child to adoption less than 3 months after the removal despite knowing that the father was seeking custody and before he could be adjudicated the legal father – which he subsequently was pursuant to genetic marker testing. DCF put up one barrier after another to reunification with the father. These barriers included telling the father that he could not speak Spanish to his child although that was the only language he spoke and having him complete a sign language class which he had to find on his own (which he did). One of our experts later testified that the child had a vision problem and not a hearing problem so that it was not logical for the child to be learning sign language – a second language – instead of Spanish. During trial, we discovered that DCF social workers and supervisors had intentionally falsified/changed their notes during the pendency of the trial. I made a motion to compel DCF to produce its Word History files which showed this and was able to have this admitted into evidence.

It was a five-year battle – from the time of removal (from the mother) until father prevailed at trial - to reunite the child with his father. There were no allegations of abuse or neglect against the father; he was successfully raising two other children at the time and had no involvement with the child welfare agency due to his parenting of them, and he did nearly everything the department asked of him. Even though the father came to every medical appointment and court date for his son while he was raising his other children and working, DCF claimed the father would not be able to take care of his son's medical needs. The trial began in 2016 when the child was 2.5 years old and ended in 2018 when the child was 5 years old. The trial took 102 days over a span of 2.5 years. When the child was reunified with his father, the medical conditions began to disappear, almost immediately. By six months after reunification, the child no longer needed a day brace for his leg, could drink and eat normally, had his G-Tube removed, no longer had behavioral difficulties and started gaining weight. He even started becoming bilingual in English and Spanish. Throughout the case, the child welfare agency continuously put up barriers and did not want the father to reunify with his son. The challenges this father faced in reunification illustrates how hard it can be to fight against social services. The agency controls parents’ access to their children, often only allowing limited access. They then turn around and say parents do not have a strong bond with their children and that the children will be harmed if removed from their foster parents.

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

There are some really good child welfare social workers who are working under difficult circumstances.
What are some of the weaknesses of the child welfare system in your area?

One weakness is that the child welfare agency is monitoring itself. There is a need for an independent agency to be responsible for monitoring and reviewing the actions of the child welfare agency. Currently, in Massachusetts, foster care reviews which occur 6 weeks after placement and then every 6 months are run by DCF itself. So-called clinical reviews are not overseen by any independent agency although these reviews are often shrouded by secrecy and result in dubious “clinical” recommendations. Additionally, there is a lack of proper training on how to work with diverse families and cultures. A lack of understanding or even an unwillingness to really learn about a family’s culture frequently leads to misinterpretations and miscommunication.

A further weakness in the child welfare system is that the child welfare agencies are not looking at the trauma they cause the children by removing them from their parents, extended families, and their communities and placing them in a succession of foster homes. If children are missing school or doctor appointments, social workers need to look at the barriers and work with the parents to help them overcome the challenges before removal. Parents may need assistance and guidance with various tasks such as helping set up meetings with the school, managing health insurance, obtaining transportation, and finding resources.

Another weakness is that the agency can supposedly gauge the quality of a parent’s parenting skills and determine the deficits, if any, in the unnatural setting of a child welfare agency visitation or conference room. Parents should have the opportunity to have contact with their children in a natural environment where their parenting strengths can be observed and deficiencies that are likely to pose a risk to the child of abuse or neglect can be spotted. With the exception of extreme cases, it is important to be able to observe parents cook, clean, and play with their children in an environment that is more natural than a little child welfare agency office. Ideally, older adults who have already parented their children successfully to adulthood should be recruited to help parents address any parenting deficits they may have. Issues such as parental substance use and domestic violence should be addressed, whenever possible, with treatment or safe housing where the children can be with their parents.

Describe some efforts you have made to improve child welfare practices in your area

As a practitioner, I try to put power back in the control of the parents. If parents are literate, I teach them to keep a calendar and take notes about any contact with their child or the child welfare agency. If they are not literate, we can use other techniques such as voice recordings to take notes. I spend many hours with the client learning about them and their background, explaining how the child welfare system functions and how the court process works. I discuss strategy with them and I am available as often as possible to answer their questions and provide them with encouragement and positive reinforcement.
I also serve as a mentor to about 9 attorneys working in child welfare practice. I share my experiences – both positive and negative – with them. I also share helpful sample motions and briefs with them when they request this support. Additionally, I serve as faculty for trainings for the Committee for Public Counsel Services as needed and when requested.

It is important for attorneys in this field of practice to challenge the system every step of the way. Be creative and don’t be afraid to push back. In addition to filing motions to compel the child welfare agency to make efforts toward reunification, you can file complaints with the state, with the Department of Justice, U.S. Department of Health and Human Services, etc. Sometimes I tell my clients that it is like David and Goliath.

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

It is important to develop a relationship of trust between you and your client so that you can build the case together. Always work with the parents as a team and explain the case. To build trust and work with the parents, it is important to spend time with them. Tell parents not to wait for the child welfare agency to ask them to do something. You can help them find resources or you can put consistent pressure on the child welfare agency to refer the parents to appropriate services. In Massachusetts, we can hire licensed social workers outside the child welfare agency to work with our clients, providing them assistance with resources, observing visits, etc.

**What advice would you give to other professionals who work in child welfare?**

It is important to recognize the trauma that children experience because of removal from their families and their ongoing separation from their families and their communities.

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

They need to re-examine the child welfare model and find ways to address issues of poverty prior to removal. They need to create a system where children are part of their parent’s treatment. When there are issues in a family that could potentially lead to a removal, it is important to try and find a solution with all stakeholders, including children, extended families, natural supports, etc. short of removal. All parties, including extended family, need to be involved in trying to find a solution. Child welfare agencies need to do more real safety planning involving the whole community of family, friends, and school or daycare as opposed to removal. If a removal is absolutely necessary, ensure that parents/caretakers are able to maintain real contact with their children in a natural environment where they can actually parent, with the exception of extreme cases. Finally, create systems where there is outside oversight of the child welfare agencies and real data collection that is available to the public.
What programs are most effective in helping parents reunify?
I find that support groups are often effective in helping parents reunify. Parent-child trauma recovery programs, nurturing parent programs, parent advocacy groups and parent partners can also be helpful and important for reunification. To my knowledge, there is not a parent advocacy group for parents involved with the child welfare agency where parents who have been through the system can coach and counsel other parents in Massachusetts, but it is something that I think is important and something I have wanted to put together for a long time.

What preventative actions do you think would be most effective in avoiding the conditions that may lead to foster care?
First and foremost, we, as a society, need to address issues of poverty and racism which often lead to a family's involvement with a child welfare agency. We need to have more affordable and low-income housing, more substance use treatment programs, more mental health services for children and their families, more services for families that are not proficient in English, more employment training and opportunities, more low-cost daycare, more family shelters, more services for victims of domestic violence AND their children. When a family is struggling, parents, extended families, school personnel, and other resources in the community should come together to find a solution whenever possible. Safety plans should be created by the family and their community supports with the assistance of courts and child welfare agencies prior to a removal.

Do you think there are any public misconceptions about the child welfare system?
The public believes that the child welfare system either doesn’t do enough or they do too much depending on what story in in the news this week. The public does not understand the system and what can lead to family separation. It also does not truly understand what parents go through in trying to reunify with their children.

Any final reflections?
I work with a lot of wonderful and talented colleagues, and we are in the trenches trying to ensure that people truly have their constitutional rights to their relationship with their children.