



Child Law Practice

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Helping Lawyers Help Kids

Engaging Parents as a Path to Reunification: *Surfacing Values and Dismantling Assumptions*

by Michele Cortese, Tanya Krupat & Ronald Richter

When children are removed from their parents because of alleged abuse or neglect, the first permanency plan is nearly always to reunify the family. The law presumes, in the first instance, that reunification is in a child's best interest. Experience teaches that children almost always want to return to family and parents' main objective in the court process is often to have their children returned. Even where parents' rights are terminated and children are adopted, biological ties often remain strong and children, frequently in adolescence, return to their biological parents. Research also underscores the primacy of the parent-child relationship despite abuse and neglect, and that in most cases, there is no greater loss to a child than losing a parent.¹

Most practitioners agree that when parents effectively engage in maintaining a relationship with their children, effectively engage in service planning, and remain engaged in the court process, safe and lasting reunification is more likely. Most would also agree that parents are most effectively engaged when their strengths and needs are identified and drawn upon to inform each of these areas. No matter which party we represent in a proceeding, we each have a duty to ensure our actions enhance the likelihood that a

parent will become engaged in a way that makes safe reunification possible.

While it is relatively easy to embrace the notion that each family is unique and that each parent has individual strengths and weaknesses, it is quite another to cultivate practice habits that make it likely that each parent will be considered and engaged as an individual. Such a stance requires objectivity which can be an elusive commodity in the context of a practice where most professionals have heavy caseloads and limited time. Overburdened systems tend to engender formulaic responses, and we all risk seeing parents and children as more similar than they really are.

This article raises questions for family court practitioners to ask in every case, whether that practitioner represents a parent, a child, or an agency. The questions are meant to help practitioners surface and dismantle assumptions that may be undermining their ability to treat each family as unique. Raising these questions habitually can help practitioners engage parents more effectively and more objectively. By engaging parents, we promote a more accurate assessment of a family and thus the opportunity for reunification; we also improve our representation of clients and ultimately the integrity of the legal process.

What are this family's strengths?

Families come to the attention of the child welfare system because of a crisis, which has either been building over time or is caused by a particular set of circumstances. Parents charged in child protective proceedings frequently face multiple problems and need significant time to address them. Practitioners must focus on these problems as they can compromise children's safety, but often do so without also assessing a more comprehensive picture of the family, including what strengths a parent has that can be built upon in planning. Strengths are routinely overlooked or ignored in family court practice, despite the practitioner's best intentions.

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ABA Child Law PRACTICE

ABA Child Law Practice (CLP) provides lawyers, judges and other professionals current information to enhance their knowledge and skills, and improve the decisions they make on behalf of children and families. Topics include: abuse and neglect, adoption, foster care, termination of parental rights, juvenile justice, and tort actions involving children and families.

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Planning that integrates consideration of these strengths will lead to more accurate assessments while also enhancing the likelihood that the parents will be empowered to successfully address their deficits. The following questions can help identify a family's strengths:

- What do you know about this family beyond these allegations?
- Is there a stable extended family?
- Does the parent have a job or does the parent engage in another activity that demonstrates a sense of responsibility and consistency?
- Does the parent have a good track record of attendance at a particular program?
- Is the family involved in religious or community-based activities or organizations?
- Have the parents attended to the child's education and medical needs?
- What obstacles has the family recently overcome, e.g., adjusting to a new culture, securing permanent housing, dealing with a death in the family?
- What are the child's individual strengths?
- Who can tell me about the family's strengths and the historic quality of the relationship between the parents and child?
- Am I possibly (and inappropriately) bringing my own personal values or experience to bear on my view of this family?

Family court practitioners in particular run a great risk of having their personal values and life experiences influence their work with families. We always share with clients, at a minimum, the experience of having been a child; most of us have grown up with at least one parent and siblings, and many of us are parents ourselves. Some of us were adopted and a few of us have been foster children. So

too, some of us have past experience with addiction, mental illness, neglectful and/or abusive parents, or family disruption, perhaps as a result of divorce. Most adults also feel protective toward children—a vulnerable population—and any act that harms a child evokes strong emotional reactions. This means that we all bring to practice strong emotional connections to and opinions about the issues we address each day. Those strong connections and opinions may influence the way we view families in ways in which we are not even aware; in particular, they may affect how we view questions of what is “harmful,” what is “best” for a child, what a family “needs.”

- What issues from my own experience do I feel strongly about? Are any similar issues present in this case?
- Am I confusing my legal obligation to “protect from harm” with my personal judgments of what is “better” for a child?
- Can I state the specific reasons that something is in a family's or child's best interest?
- How speculative is the harm I'm guarding against and have I looked closely at the harm caused by the family's separation? Have I discussed my own analysis with anyone who might have a different perspective and/or can offer professional expertise on pertinent issues?
- Am I substituting judgment for my (parent or child) client based on a factor that is not specific to this family? Can I clearly define the reasons why?
- Is a “bad” result from a past case unfairly influencing my assumptions in this case?

Do I believe the parent should be punished?

In most cases, parents, more than

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other parties, are at greatest risk of harm that results from practitioners' assumptions and a lack of objectivity. Parents may have acted cruelly toward their children or may have engaged in shocking behavior. It is reasonable to feel outraged or to have a similar, visceral response to any adult who would harm a vulnerable child, and to want to protect the child from further harm. This can translate into a conscious or unconscious belief that parents have forfeited their entitlement to a relationship with their child altogether, or at least for the time being, and that they lack the ability or the right to make any decisions about their child's well-being.

Throughout a case, parents often disappoint their children and the practitioners seeking to help them. Sometimes we have worked extremely hard and later feel personally let down if the parent has failed to meet an expectation in the time we had hoped or has failed to engage in planning in the manner we expect. Initially and over time, we may fail to respect a parent's opinion about her family's future. Even worse, sometimes we may stop believing the parent is capable of really caring about or deserving of a relationship with her children.

It is important for us to remember that parents retain many rights to make decisions for their children, even when they have lost custodial rights temporarily. Just as important, we need to actively question our professional tendency as lawyers to hold someone accountable for a legal wrong, and harness our natural tendency as people to take offense at someone who could harm a child; by doing so, we could unwittingly overlook the child's attachment to and need for the parent, as well as important opportunities for a parent to address past mistakes in a meaningful way. The following questions are meant to help us avoid this:

- Do I think these parents can change? What is the basis of my answer to this question?
- Have I asked about their efforts to change?
- Am I angry at the parent? Is the anger a function of the parent having harmed the child at one point?
- Do I think, just because the parent has not expressed regret to me or the agency, that the parent is without regret?
- On what basis am I assuming that the parent lacks insight?
- Am I considering that a child's attachment to this parent may be the result of some positive interactions with the parent?
- Are there planning decisions that can safely be made by the parent, such as activities to structure visits around or the importance of keeping a child in his school?
- Are the punitive attitudes of caseworkers or others working with the parent undermining the parent's ability to address her problems?

Am I taking a one-size-fits-all approach to these allegations?

When practitioners are representing hundreds of clients over time, it is easy to address cases with similar issues in formulaic ways. Additionally, there are allegations that by their very nature can prematurely convince us that the parent will never be able to resume caring for the child. For example, the parent who suffers from a bipolar disorder may be perceived as untreatable by some practitioners. Or the chronic drug abuser, who has had one or more children born with positive toxicologies for cocaine, may seem beyond rehabilitation.

Giving each child a genuine opportunity to be reunified with her parent requires assessments that reflect the unique strengths and needs

of each family and that are made routinely throughout the case. Each practitioner should carefully scrutinize the original investigation that led to the filing of the petition. In the fast pace of family court practice, where allegations may appear similar from case to case, we cannot allow ourselves to credit an allegation simply because it is being made in writing in a properly executed child neglect or abuse petition. Parents and children's attorneys in particular should follow up on partial or complete denials of allegations. Throughout the case, practitioners should be deliberate in obtaining current assessments; whenever practitioners assume that "all prior orders be continued," they should know why and the reasons should be relevant to the family before them.

Most attorneys need the assistance of social workers, psychiatrists, substance abuse experts, and others to investigate and make such assessments accurately. The learning curve in our field is steep. A typical family court practitioner must learn the intricacies of litigation and learn as much as possible about subjects as varied as child development, mental illness, domestic violence, and attachment theory. Professionals could devote their entire careers to mastering just one of these subjects, and yet family court practitioners are expected to make difficult decisions and to grasp at least part of the complexity underlying those decisions. If attorneys practice without regular help from other professionals, the risk of seeing cases as "garden variety" is even greater.

To avoid allowing preconceived judgments to undermine or foreclose parent engagement, the practitioner should consider the following questions:

- Do I know enough about the underlying cause of the alleged neglect to form an opinion about the parent's potential for rehabilitation?

- Was there any way in which the underlying investigation was compromised? Were children and parents interviewed in their native language? Was information provided by the parent pursued? Have I taken the opportunity to talk with the parent with counsel present?
- Have I reached out to professionals with expertise in a given field, e.g., drug treatment counselors, social workers, psychologists, psychiatrists, to educate myself about a particular condition or illness?
- Am I being influenced unfairly by a previous case in which this same condition or illness apparently prevented a parent from engaging in the planning process?
- Do I believe that relapse is part of recovery?
- Do I think the same diagnosis necessarily yields the same prognosis?

What am I assuming about the parent and child's apparent reactions to the planning process?

A parent charged with neglect is routinely asked to expose the most intimate details of his or her parenting practices. These practices are typically scrutinized by a caseworker and then by a parent's attorney, a child's attorney, an agency attorney, and a judge. Within this context, child welfare practitioners expect parents to "improve." They are supposed to follow the service plan designed by strangers to address "their problems."

Not surprisingly, the dynamic that results from this approach often leaves the parent feeling shut down by the process, instead of empowered. As a result, some parents feel judged and uncomfortable; others feel angry and resentful, which then becomes apparent in their attitude

toward us and the court. Each parent communicates their anger, resentment, and frustration differently. No matter how they do so, however, often they are labeled as "uncooperative" and are then further alienated from the planning process.

Moreover, while practitioners experience family court as fast-paced, hectic, and frenetic, parents and children often experience the legal process as long and drawn out, with little substantive progress taking place at each court appearance. Families wait anxiously for a court date, anticipating a dramatic change in their circumstances, only to be asked to come back months later. During those months, children learn to walk, lose teeth, have birthdays, and graduate. Parents may also achieve significant milestones in their service plan, only to see the family court practitioners fail to acknowledge this progress. During those months, a caseworker may leave, sometimes leaving a case uncovered and a parent without needed information and assistance; when a new caseworker arrives, the parent and child must tell their story again and build a new relationship. This is often experienced by parents as a "step backward." In assessing how parents and children are reacting to the planning process, we need to be mindful that what to us may be "routine" may be frustrating, illogical, impersonal and even traumatic for them.

Two critical areas of a service plan where parents and children often have reactions that can be misinterpreted are visiting and parenting skills. Nearly every service plan includes a recommendation for family visiting and parenting skills. Seldom do practitioners give enough thought to tailoring these areas to meet a family's strengths and needs. As a result of these formulaic arrangements, "negative" reactions by parents and children may be observed and documented.

Parenting skills are routinely

recommended without really assessing whether the allegations or particular circumstances warrant such a program or would be better addressed by an alternative service for the parent. Or, courses are not well matched to a parents' actual needs; for instance, the parent of an adolescent will be asked to attend a program that spends several sessions on infant and toddler development. Consequently, parents are asked to attend classes that make little sense to them, and they may lose confidence in the legitimacy of the service plan or of its potential to help them address the reasons their children entered care.

Parent-child visits represent another (and often missed) opportunity for parents to address the reasons children entered care, and for practitioners to engage parents. After being separated, a child and a parent can have a range of reactions to visiting. A parent may feel guilty or angry about the separation and have difficulty engaging with the child productively during what feels like precious little time together. Too often, when a child shows "negative" behavior after a visit—such as "acting out" or regressive behaviors such as bedwetting—practitioners hastily conclude that the visit itself is to blame and must not have been productive or successful. This may be true but we must also consider that the same behaviors could lessen with more visits or that the 'supervision' feels like 'surveillance.'

Given all this, we need to hold our assumptions lightly and look at the quality and appropriateness of the service plan frequently and critically:

- Have I taken the opportunity to talk with the parent about whether s/he feels the service plan addresses her and her children's needs?
- Have I considered that the child's post-visit behaviors may reflect a strong attachment to the parent

and that behaviors will subside with more frequent and longer visits? Have I considered the possibility that the visit arrangement/set up may be influencing the child's post-visit reaction?

- Am I focusing exclusively on a child's physical well-being without regard to emotional well-being? What changes am I expecting to occur before I'll consider more liberal visiting or discharge? Have these expectations been clearly communicated to the parent?
- Did the parent (and/or older child) have an adequate opportunity to contribute to the planning process? To the visiting plan/arrangements?
- Were the parents asked what they believed would best help them regain custody of their children? Were they referred to programs that really suited their needs?
- Am I getting updated case records and otherwise updating my information about this family at each court date? Am I insisting that the agency update the parties each time?
- Might a parent feel ashamed, angry, misunderstood? Could that be the reason they are less involved? Have they given up hope because the process is dragging on and on?
- Were they treated by the agency in a formulaic manner?
- What assumptions am I drawing from the parents' expression of anger, hostility or mistrust of practitioners or the system?
- When given the chance, am I communicating in a way that is respectful and mindful of the stresses of the process?

What I can do in my role to ensure the parent is being effectively engaged?

Often, we may value the notion that

parent engagement can speed safe reunification, but we may be at a loss as to how to make this happen. We may feel ill-equipped to engage the parent ourselves, and, in many instances, there will be ethical limits on how and when we engage the parent. We may assume the parent's attorney can help the parent engage with their children or with services, but these practitioners can also feel and be ill-equipped to do so.

In fact, there may be others, usually identified by the parents themselves, who can help practitioners work with the parent. It may be someone who knows a great deal about the family's history, someone who would host a visit, or someone to accompany the parent to meetings and court dates who can provide additional support. It may be someone with particular expertise whom we can consult to try and better understand a family's strengths and needs.

There are also resources to help the practitioner ensure the parent's perspective is included, considered, and respected. Community organizations may specialize in engaging parents, and many foster care agencies employ parent advocates to assist in this way. Parent advocates can be a source of support to parents but can also help ensure that court orders and the service plan are followed; this lends legitimacy to the process that can keep a parent invested in planning. Whenever possible and practical, capitalizing on opportunities to meet the parent and observe visits will almost always enhance our understanding of the case and may help us identify the best ways to engage the parent in working towards reunification. At the very least, seeing photos of the families helps to individualize them, transforming parents and children from "cases" into "families."

Professionals in the fields of mental health, substance abuse, child development, immigration, and housing (to name a few) can be

instrumental in illuminating the particular issues in a case. The field of family therapy provides useful lessons regarding involving families/parents in decision making and in the importance and practice of early parent engagement for the betterment of the family.

These questions might be useful in identifying the critical actors in a case who can help engage the parent:

- Who does the parent consider to be a source of support? The young person?
- Who has effectively engaged this parent in the past? The child?
- Has anyone asked the parent who they would like to have accompany them to agency meetings, visits, court dates?
- Do I feel adequately equipped to engage the parent? Can I work with a social worker or parent advocate who can? Can I identify another professional who can help me?

Conclusion

The questions raised in this article are designed to improve our work in child protective proceedings. They are offered as a tool to assist practitioners routinely ask questions to maximize parent engagement and ensure quality, nonjudgmental, objective representation. When we focus on parent engagement, we are better positioned to provide representation that will lead to family reunification.

We have proposed asking a lot of questions—questions to raise our consciousness, questions that may make us uncomfortable. Our answers to these questions—and even our willingness to pose them—should inform how practice. Over time, such questions can become part of how we think about our clients, more as unique individuals and less like "cases." We hope they are useful for supervisors to raise with

new and more experienced staff alike, and that they are relevant to each stage of representation: assessing the initial allegations; preparing and conducting client interviews; developing service and visiting plans; and advocating for a particular course of action in a case.

Because of the nature of the work, this is not a simple or easy task and requires an ongoing commitment to self-examination. Each time we engage a parent effectively, we significantly affect a child's well-being and on a family's chance for reunification. The life altering consequences that result from family court proceedings obligate us to do everything we can to assure that our practice habits reflect, and do not obscure, the integrity of every family.

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Endnotes

¹See generally Monahon, Cynthia. *Children and Trauma: A Parent's Guide to Helping Children Heal*, 1993; Rando, Therese. *Treatment of Complicated Mourning*. 1993; Worden, William. *Grief Counseling and Grief Therapy: A Handbook for the Mental Health Practitioner*, 1991.