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Helping Lawyers Help Kids

IN PRACTICE

Working with Parent Partners to Achieve Better Case Outcomes for Families

by Diane Boyd Rauber

Last month, the article, “From the Courthouse to the Statehouse: Parents as Partners in Child Welfare,” described the growing parent partner movement. Parent partners provide guidance and support to parents newly involved with the child welfare system. They accompany parents to court hearings and agency meetings, help them access services, and encourage them to advocate for themselves. This follow-up article provides parents’ attorneys suggestions for working with parent partners and parents.

If you represent parents in the child welfare system, finding the time to meet your responsibilities to your parent clients is tough. You have a large caseload and the court has a busy docket. Add a new person to the mix—a parent partner—and you may be ready to throw up your hands. But parent partners are an asset and can do much to help you (and your client) achieve the best result in the case. The following tips will help you forge strong working relationships with parent partners and your parent clients.

■ **Determine if a parent partner is assigned to the case.** If your jurisdiction has an established parent partner program, you may find out that your client has a partner as soon as you are assigned to the case. If you aren’t sure, you can check with the court clerk or the program itself. If your jurisdiction has a new parent partner program and your client is interested in having one, contact the program to see if your client meets the criteria. Some programs focus on a certain

demographic, e.g., first-time parents in the system or families with substance abuse issues.

■ **Treat parent partners as professionals.** While parent partner/advocate programs are expanding across the country, the concept is still relatively new. You may have little or no experience working with a parent partner. Generally, the parent partner has dealt effectively with the issues that brought him or her to the child welfare agency’s attention, been reunified with his or her child for at least one year, and been screened by the advocate program.

He or she participated in extensive training on a wide range of child welfare topics for weeks or even months before being paired with a parent. The parent partner is often a full- or part-time paid employee of the advocate program, and required to participate in ongoing continuing education. In all instances, the parent partner is sharing personal and painful experiences with strangers to help them rebuild

their lives and reunify with their children.

Parent partner programs generally work to dispel generalizations about parents. Take time to consider what negative stereotypes you may unconsciously bring to the experience. For example, maybe you have many clients who have trouble completing substance abuse treatment and have not stayed

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Tips for Attorneys

Parent advocates/mentors have experienced the system in the same way as your client. They can provide insight into positive and negative experiences and help you improve. Advocates from the Jefferson County (Kentucky) Parent Advocate Program offer the following tips for how attorneys can better serve their parent clients.

- Don't be judgmental or judge your parent client just on what you read in the case file; go into the case with an open mind.
- COMMUNICATE! Be sure your clients knows you are their attorney. Give them a business card and let them know the best ways to reach you.
- Return calls promptly and have more contact with your parent clients.
- Simplify paperwork as much as possible, and be sure your clients understand it.
- Meet with your parent clients before court, not just a few minutes in the hallway before the hearing. Listen carefully to what they have to say to you, and be polite and respectful.
- Recognize that parents are often nervous about appearing in court. Don't leave them alone in the courtroom. Be prepared for your court presentation.
- Help your parent clients access services.

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sober, and you are skeptical about the partner's ability to support your client in this area. All parents deserve to be treated respectfully; parent partners deserve to be treated like the professionals they have become.

- **Establish roles and expectations.** Once you have met and interviewed your client individually (see the discussion of confidentiality below), contact the parent partner and discuss his or her role in the case. Does the parent partner plan to accompany your client to meetings with the agency? Will the parent partner help your client access services? How often will you meet with or talk to the parent partner? Be sure you understand the role of the parent partner, and are comfortable with the assistance the partner will provide. Although parent partner/advocate programs differ in their

expectations, most parent partners will focus on helping your clients access services and learn to advocate for themselves. Well-trained parent partners understand the difference between their role and your role as the legal advocate for your client; be prepared to explain your role and the tasks that only you can perform, e.g., negotiations and courtroom advocacy.

- **Communicate regularly with your client and the parent partner.** The key to effective advocacy is communication with the client. As noted in the sidebar, the *ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases* stress the importance of regular communication. Most states' ethics rules obligate attorneys to keep clients informed about the status of their case, comply with requests for information, and consult with clients on major decisions.¹

Parent clients cite good communication as critical to quality representation. A recent ABA study of parent representation in Michigan highlighted parents' desire for more communication with their attorneys. A parent in one focus group stated: "Just make me feel like you hear me . . . A good lawyer stays informed, calls back, checks in with clients. . . . Communication is the key."²

The same study, however, revealed parents are often disappointed in the level of communication with their attorney. Thirty-one percent of responding parents indicated their attorney never contacted them and 51.7 percent of parents stated their only contact with their attorney was right before the hearing.³ Common complaints from parents in focus groups included attorneys not responding to telephone calls, communicating only right before the hearing, being unavailable when a problem arose with services, and "not being a reliable advocate."⁴

To achieve the goals of the *Standards*, fulfill your ethical obligations, and be a reliable advocate, you need to establish open lines of communication with your client. As previously discussed, contact your client as soon as you are assigned to the case. Once you have interviewed the client individually, contact the parent partner. If the parent partner is assigned later, be sure to contact him or her as soon as possible after the assignment. Discuss how and when you will communicate with your client and the parent partner. Don't simply discuss how you will contact the parent and parent partner; address how best they can reach you.

- **While your ethical obligation in the case lies solely with your client, keeping in regular touch with the parent partner is**

important. Because of the parent partner's unique relationship with your client, he or she may find out critical information, such as a new phone number or place of employment, before you do. Maintaining close contact with the parent partner can ultimately save you time, improve your advocacy, and fulfill your ethical obligations to provide competent and diligent representation.⁵

- **Remember applicable confidentiality/ethics rules.** Information gained from the parent partner, whether positive or negative, is protected by the confidentiality rules. Commentary to Model Rule 1.6 makes clear that all information gathered in the context of representation is considered confidential, regardless of its source.⁶

However, you should not have an independent parent partner present when you interview your client because the presence of a third person voids the attorney/client privilege. (This admonition would not apply if the parent partner is an employee of a law firm, such as the Center for Family Representation in New York City, that uses a team approach to advocacy.) Remember that the evidentiary principle of attorney/client privilege is a narrower construct than the ethical principle of confidentiality.

A separate issue is whether your jurisdiction considers the parent partner a mandated reporter. Some jurisdictions are working to exempt parent partners from the mandate through legislation. Be sure you understand how your jurisdiction views parent partners under mandatory reporting laws. The agency that trains and employs the parent partner should be addressing this issue with the parent partner as well.

ABA Parent Representation Standards

The American Bar Association House of Delegates approved the *Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases* in August 2006. The *Standards*, available at www.abanet.org/child/parentrepresentation/parent_standards_passed.doc, provide extensive guidance regarding the attorney-client relationship and communication with the client. Specifically, Standard 11 states:

Meet and communicate regularly with the client well before court proceedings. Counsel the client about all legal matters related to the case, including specific allegations against the client, the service plan, the client's rights in the pending proceedings, and orders entered against the client and the potential consequences of failing to obey court orders or cooperate with services plans.

The commentary to this Standard emphasizes the duty to communicate regularly "extends beyond the courtroom."

- **Don't rely on a parent partner to do your job or the social worker's job.** Recent evaluations of parent partner and advocate programs show the presence of a parent partner in a case can reduce the amount of time a child spends in foster care⁷ and increase the chance of reunification.⁸ Parents often report a bond with a parent partner because the parent partner has dealt successfully with the same issues they are

this concern, noting social workers sometimes rely on a parent advocate to perform tasks for which they are neither trained nor authorized. An example cited in the evaluation was a social worker asking a parent advocate to facilitate a visit. Not only was the parent advocate untrained for this task, it created additional problems when the advocate was asked to testify in court about what occurred during the visit.⁹

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experiencing. For these reasons, a parent partner is an important ally as you represent your client.

Because of a large caseload, however, you may be tempted to rely on the parent partner to do tasks that you (or the social worker) should be handling. In the 2007 evaluation of its parent advocate program, Jefferson County (Kentucky) highlighted

As a general matter, you do not want the parent partner to testify and you should do your best to ensure the parent partner is not asked to testify or subpoenaed.

You may view the parent partner as an "extra set of hands." Don't depend on the parent partner to provide information regarding the parent's participation in services, visitation, or

general behavior **at the expense of your own independent evaluation.** The parent partner's perspective should supplement your view of the case, not replace it.

- **Determine what, if any, level of courtroom involvement by the parent partner is appropriate.** Many parent partners accompany parents to court hearings to lend support. Different programs report varying levels of activity in the courtroom and court involvement can be a source of stress and concern for parents' attorneys and advocates alike.

For example, as discussed above, a social worker in Jefferson County asked a parent partner to supervise a visit. The parent partner agreed, and the judge later asked the parent partner to testify about the visit. Clearly, your case could be compromised if the parent partner's testimony is negative.

Discuss early in the case what the expectations are regarding the parent partner's role, if any, in the courtroom. As recognized in the *Standards*, it is your role to "[d]evelop a case theory and strategy to follow at hearings and negotiations."¹⁰ While the parent partner's input can be helpful, you as the attorney (in consultation with your client) have the ethical obligation to determine the course of the case and the legal arguments presented in court.

A well-trained parent partner teaches the client to develop self-advocacy skills, understands the differences between his or her role and the attorney's role in the case, and is sensitive to potential conflicts. Should you have difficulty reaching common ground about the parent partner's activities in the courtroom, however, speak with the program administrator.

- **Offer to provide training to your local parent partner program.** An experienced parent's attorney has valuable insight to share with parent partners. Consider whether you have experience you can share with a local program. Offer to present at a training on a particular topic. By becoming involved with a program, you gain more knowledge about how the program works and address ethical concerns before they become an issue in one of your cases.

Conclusion

As the parent partner movement continues to gain momentum, more evaluations and statistics will be generated to show its successes and consider any shortcomings. Evidence to date, however, shows parent partners provide critical support to your clients, reducing the time the child spends in care and improving the chances of reunification. By developing a good rapport with parent partners and becoming knowledgeable about their roles, you can achieve better results for your clients.

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This article is one in a series by the ABA National Project to Improve Representation of Parents Involved in the Child Welfare System. Learn more at www.abanet.org/child/parentrepresentation/home.html.

Endnotes

¹ Model Rules of Professional Conduct (MR) 1.4 Communication.

² American Bar Association Center on Children and the Law for the Child Welfare Services Division of the Michigan State Court Administrative Office. *Legal Representation for Parent in Child Welfare Proceedings: A Performance-based Analysis of Michigan Practice*. Washington, DC, 2009, 34. <www.abanet.org/child/parentrepresentation/michigan_parent_representation_report.pdf>

³ *Ibid.*, 31.

⁴ *Ibid.*, 33.

⁵ MR 1.1 Competence; MR 1.3 Diligence.

⁶ MR 1.6 Confidentiality of Information, Comment 3.

⁷ The Center for Family Representation (CFR) in New York City uses a Community Advocacy Team (CAT) Approach, which includes an attorney, social worker, and parent advocate, to represent parents. Of the 700 families who received services through the CAT approach, the average stay for children entering care was 98 days, compared to an average stay of 11.5 months for children who reunify in one year. The Center for Family Representation. "Community Advocacy Teams – Common Sense Approach Yields Uncommon Results." *Family Matters*, Winter 2009. <www.cfrny.org/pdf/newsletter_winter09.pdf>

⁸ Of the 202 children receiving parent advocate services in Jefferson County, Kentucky (between September 2005 and April 2008) who left out-of-home care before 2008, 70.3 percent reunified with their parents or relatives. This rate compared to 56.7 percent of children who did not receive parent advocate services. Lianekhammy, Johann and Ruth Huebner. *Parent Advocate Program Evaluation Outcomes for Families Served in Jefferson County September 2005 to April 2008*. Jefferson County, Kentucky, August 21, 2008, 1.

⁹ Commonwealth of Kentucky, Cabinet for Health and Family Services, Department for Community Based Services. *Parent Advocacy Program Evaluation*. Jefferson County, KY, June 11, 2007, 17.

¹⁰ American Bar Association Center on Children and the Law. *Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases*. Washington, DC, 2006, 5. <www.abanet.org/child/parentrepresentation/parent_standards_passed.doc>

Parent Partner Stories:

From Parent-in-Crisis to Parent Partner—Nancy Colon’s Story

Nancy Colon is a parent advocate with the Detroit Center for Family Advocacy. She previously worked as a parent partner for the Building Community Partnership Initiative through the Association for Children’s Mental Health in Detroit. She is a member of the Steering Committee for the National Project to Improve Representation for Parents Involved in the Child Welfare System, www.abanet.org/child/parentrepresentation/home.html. She shared her experiences as a parent and parent partner with Michigan judicial officers, attorneys, and other professionals at a luncheon speech on October 2009 at the Lawyers for Families Symposium in Lansing, Michigan. An adaptation of her speech appears below.

Losing My Children

In March 2004, I got a call from protective services asking me to come to a team decision-making meeting and to bring my five kids. I had no clue what the meeting was about, except that they had questions about my children and a situation that was brought to their attention. I sensed something was wrong, but could never have imagined what would happen next. I sat at the table confused, lost, and hopeless. I had no lawyer to explain what was going on.

For the past two years I had been living with domestic violence. Protective services accused me of neglect and my five children were placed in four different foster homes. I didn’t have any family support or friends to help me. Because of my situation, my caseworker thought it best to send me to a shelter an hour from Detroit. I lost everything that mattered: my children, my job, my home, and my dignity.

Alone in Crisis

The first court hearing after the removal was a blur. I didn’t know what to expect and couldn’t stop crying. I had never been in a courtroom before. I met my attorney a few minutes before my hearing. He reviewed my rights and told me nothing would happen that day and another court hearing would be scheduled. I left the courtroom in crisis wondering

when I was going to wake up from the nightmare.

For the first few weeks after removal, I did not know if my children were okay or where they were. I knew I had to get them back, but I

I left the courtroom in crisis wondering when I was going to wake up from the nightmare.

found myself in a shelter, with no job, and clueless on where to get help. I had 30 days to do something before the shelter closed its doors and asked me to leave. I was told I would receive services if I left everything behind and started a new life. But everywhere I went people kept telling me they could not help me.

Treatment and Visits

Three weeks after my kids were removed, the intake worker came to the shelter, gave me my treatment plan, and asked me to sign it. I didn’t have a chance to closely review it, give input, or go over it with my attorney. I didn’t know what to do and thought I was just going to get the kids back in a few weeks.

It took the intake worker three weeks to set up my first visit with my children. As you can imagine, this visit was emotional and hard for

all of us. We had not seen or talked to each other for so long.

A Move for the Better

I went back to the shelter after the first visit determined to get my babies back. Time went by and I was still going from shelter to shelter trying to find a stable place and start working on my treatment plan. Obtaining resources and assistance in a new city was hard. After months trying, I moved back to Detroit.

I was scared to move back because I thought the caseworker would take my kids away and I would never see them again. But I knew it was the only way to get my kids back. I knew what agencies to go to for help. I knew that my church, school, and ex-employer would support me. When I moved back to Detroit, I stayed with a friend and, for the first time, I felt I was stable and could breathe easier. I started working on my treatment plan, working two jobs, and saving money.

I still needed help understanding the court process. I never knew what to expect at the next court hearing or the difference between the court hearings. I was always intimidated by the referee. I knew he had the power to decide whether I would get a second chance to be a mother again. Every time I went to court I thought I was going to get my kids back, not knowing I needed to complete my treatment plan before the referee would

consider it. I thought as long as I was working on what the court had asked me to do and found a house I could get the kids back right away.

Navigating the System

My attorney was friendly. But at my first hearing, after reviewing my case for five minutes, he told me the best thing to do was to admit to all the allegations because this would help me get my kids back sooner. I did it because I wanted my kids back. Through the process, I sometimes felt he was more intimidated by the referee and everyone else in the case than I was. At times I wanted to tell the court that I did not agree with something or explain a situation, but the theory seemed to be that I should go with the flow and not argue because that would help my case.

My attorney took time to answer some of my calls and provide me guidance. We met five or 10 minutes before each court hearing and he always told me I was doing a good job. But he never met with me outside of court, reviewed my service plan, or filed any motions on my behalf. I never dared ask too many questions because I didn't want to complicate things or delay the process more.

I was already fighting with an agency that did not believe I could reunify with my children. I had to deal with foster parents abusing my kids while they were in the system, and a court that was focused more on my progress than terminating the father's parental rights.

Reunification at Last

Finally I completed my treatment plan. I received a new worker who became my advocate. My kids were placed in new foster homes with foster parents who cared about my family, wanted to see us together again, and supported us.

With their help and the support of my community, my children came home in June 2005 and are doing great.

I believe if my attorney had advocated more for me or pushed things a bit more my children could have come home faster and not experienced the pain they did. If I had an attorney advocating for me early on and received the right prevention services, my children would not have been removed from my custody.

Becoming a Parent Partner

Out of this life experience I became a parent partner, working with parents in my situation. I provide them emotional support, resources, and guidance—something I did not have when my children were in the system. Working as a parent partner gives me the chance to see how parents are treated by their attorneys and the system. I see how important it is to communicate openly with your attorney and know your rights as a parent.

I have seen attorneys humiliate their clients. One attorney told a client how bad she smelled and asked her if she could read. He didn't think there was anything wrong with his behavior and was surprised when she asked for a new attorney.

I had another client whose attorney went the extra mile for him, ensuring he understood the court process and his rights, and that services were provided in Spanish so the family could benefit. She always called him a few days before the hearing to review his progress and ask if he had questions. She got to court early and conferenced with everyone in the case. She sat with him and provided support and guidance. After the hearing, she always told him what steps to take next and encouraged him to call her if he had questions or concerns.

Now I am working at the Detroit Center for Family Advocacy as a

parent advocate. Our mission is to keep kids out of foster care and reduce the number of children in care by providing support and legal assistance to families. We have a team—attorney, social worker, and parent advocate. Together we work on identifying needs, setting goals, helping parents deal with legal issues, and providing resources and support services. I can sit with the birth parent and provide emotional support. I can share my story and encourage parents.

Lessons Learned

I would like you to know how important the work that parent's attorneys do is, and the impact they have on parents. Sometimes parents might be a little impatient and not know the best way to communicate their emotions or needs. They might not understand all the legal talk and how important getting things done might be.

We look to you as our most important advocates, a source of guidance and our only link to communicating with the courts. You are the only person who can tell the judge that we are good parents, that we love our children, and sometimes make mistakes or let things get out of control. We sometimes think attorneys can fix everything, but don't always understand how things really work.

Don't forget why or what made you become a parent's attorney. I believe a parent's attorney is someone who wants to advocate for and support parents when they are in need. When working with a parent, remember to listen to the parent and advocate for what works best for the family, not just what the books taught you or what society says. If you make a positive impact today, it will change what tomorrow will look like in a family's life.