THE RISE OF THE ORGANIZATIONAL PRACTICE OF CHILD WELFARE LAW: THE CHILD WELFARE LAW OFFICE

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I. INTRODUCTION

In January of 2007, the National Association of Counsel for Children (NACC) held what is believed to be the nation's first Children's Law Office Symposium. The Symposium was hosted by the University of Colorado Law School, and sponsored by the American Bar Association Center for Children and the Law, and the Colorado Office of the Child's Representative. The Symposium was a gathering of law offices dedicated to providing legal services to children in abuse, neglect, and dependency court proceedings, also known as dependency or child welfare law. The purpose of the Symposium was to gather together the nation's pioneering child welfare law offices and to establish and implement best practice models for the delivery of specialized child welfare legal services.

This was a landmark event in that such dedicated offices have been a relatively recent development in American law and there remain relatively few such offices. This stands to reason as it is only in the past thirty to forty years that an attorney could practice child welfare law at all and only more recently in a concentrated fashion. Child welfare law is the outgrowth of American society's recognition of the presence of child maltreatment and our choice to intervene in the lives of families. This occurred in the 1960s and 1970s and the attorney practice in those years was largely part time and *pro bono*. But the practice evolved and now exists as a legitimate legal specialty. In 2001, the American Bar Association approved a definition of

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child welfare law establishing it as a recognized specialty area within which an attorney may become certified.

A result of the development of child welfare law is a growing work force of attorneys, even certified specialists, who practice law for children on a full time basis. It is a complex and difficult practice that requires structures that promote the proficient delivery of legal services—in other words, a *child welfare law office.* The NACC recognizes that the delivery of high quality legal representation for children is a demanding and complex undertaking, and believes that the structure provided by a children's law office is a preferred model to ensure attorneys are provided with the necessary time, compensation, resources, support, and supervision for delivery of high quality legal services.

The Children's Law Office Symposium was the culmination of the NACC's Children's Law Office Project designed to identify, unify, and provide operational assistance to child welfare law offices. A product of this effort is the *Child Welfare Law Office Guidebook: Best Practice Guidelines for Organizational Legal Representation of Children in Abuse, Neglect, and Dependency Cases* (Guidebook), reproduced in this law review.

The long-range goal of the Children's Law Office Project is to encourage the proliferation of model children's law offices. In this way, the Symposium was not an end, but rather a beginning. Present at the beginning were thirty-nine children's law offices represented by sixty attorneys. Those offices and attorneys are listed in the appendix to this article.

The following article is derived from the Symposium opening comments delivered by Leslie Starr Heimov.

II. THE DELIVERY OF LEGAL SERVICES FOR CHILDREN: PAST, PRESENT, AND FUTURE

"The right to representation by counsel is not a formality," the Supreme Court recognized in *Kent v. United States.*[1] "It is not a grudging gesture to a ritualistic requirement. It is the essence of justice."[2] In a fair and just legal system, the voices, perspectives, and interests of all parties must be considered and zealously represented in the court process.

1. 383 U.S. 541, 561 (1966)
2. *Id.*

Child welfare attorneys embrace the principle set forth by the *Kent* court. Whether in a small rural office, a large metropolitan state agency, a government-funded office, or an office dependent upon fundraising, whether practicing in a state with a client directed scheme or advocate driven model of representation, attorneys who represent children and youth are committed to ensuring that their clients receive the most effective representation possible and that their efforts lead to improved outcomes for children and families.

A. Past: The Development of Child Welfare Law

The development of child welfare law in the United States has a long and multifaceted history dating back to the sixteenth century and the English Poor Laws.[3] It is the story of the evolving status of children from being viewed as property to becoming rights-based citizens. Historically, child protection in America was based on the good intentions of individuals to protect children from poverty or danger.

State intervention into family matters is derived from the state's authority as *parens patriae*, or ultimate parent.[4] In most jurisdictions the state can intervene in family matters based on a *prima facie* showing that a child is likely to be in danger of imminent harm. Dependency court[5] judges are charged with balancing the parents' constitutional right to direct the upbringing of their children with the state's authority to protect the child's safety.[6]

Parents have a constitutionally recognized interest in family integrity, thus most state courts provide counsel for parents

3. *See generally* Marvin Ventrell, *Evolution of the Dependency Component of the Juvenile Court*, 49 JUV. & FAM. CT. J. 17 (1998).

4. *See, e.g.*, *Ex parte* Crouse, 4 Whart. 9 (Pa. 1839) (concluding that the court had the authority to intervene into the parent-child relationship as *parens patriae*). *See also* CHILD WELFARE LAW AND PRACTICE 126 (Marvin Ventrell & Donald N. Duquette eds., 2005).

5. For the purposes of this article dependency court is defined as a court having jurisdiction over all child abuse and neglect proceedings.

6. CHILD WELFARE LAW AND PRACTICE, *supra* note 4, at 187. The Supreme Court decisions in *Meyer v. Nebraska*, 262 U.S. 390 (1923), *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), and *Prince v. Massachusetts*, 321 U.S. 158 (1944) provide the parameters for the relationship between parent and state. These cases recognize that parents have a due process-protected, fundamental liberty interest in the upbringing of their children on which the state may infringe upon only for compelling reasons necessary to the protection of the state's interest.

in termination of parental rights cases[7] and many states provide counsel throughout the dependency court process. The legal rights and interests of children involved in the court process have not yet been recognized to the same extent as the rights of parents. However, with the development of state and federal child protection laws and proceedings based on due process, child protection cases became part of a rights-based legal process.[8] As children became recognized as rights-based citizens, there became a growing need for legal representation of children.

In the 1960s and 1970s, society began to see a practice of law for children. Nearly forty years ago, the Supreme Court established that children have a constitutional right to counsel in juvenile delinquency proceedings in *In re Gault*.[9] The *Gault* decision marked the start of a new way of thinking about legal representation for children and extended to children due process protections when liberty deprivations are at stake. Although the *Gault* Court did not address the representation of children in dependency proceedings, the dependency court became a process-based system.[10]

In the year's following the *Gault* decision, Congress passed the Child Abuse Prevention and Treatment Act (CAPTA) creating the nation's first mandatory reporting laws.[11] Today, CAPTA mandates that the court appoint a guardian *ad litem* to every child involved in a dependency and neglect proceeding:

> [I]n every case involving an abused or neglected child which results in a judicial proceeding, a guardian *ad litem*, who has received training appropriate to the role, and who may be an attorney or a court appointed special advocate who has received training appropriate to that role (or both),

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7. *See, e.g.*, Lassiter v. Dept. of Soc. Serv., 452 U.S. 18 (1981). Although the Court held that the mother in this case was not constitutionally entitled to appointment of counsel, it encouraged states to appoint counsel to indigent parents in termination of parental rights and dependency and neglect proceedings.

8. *See generally* Marvin Ventrell, *The Practice of Law for Children*, 66 MONT. L. REV. 1 (2005).

9. 387 U.S. 1 (1967).

10. Jacob Smiles, *A Child's Due Process Right to Legal Counsel in Abuse and Neglect Dependency Proceedings*, 37 FAM. L.Q. 485 (2003).

11. Child Abuse Prevention and Treatment Act of 1996, 42 U.S.C. §§ 5101–5119 (2000). The Act formally recognized the existence of child maltreatment in America. It provides states with funding for the investigation and prevention of child maltreatment conditioned on the states' adoption of mandatory reporting laws.

> shall be appointed to represent the child in such proceedings . . . .[12]

The role of the child's representative varies by state.[13] Thirty-one states mandate legal representation for children in civil child protection cases. In other states lay advocates or volunteers serve as the child's guardian *ad litem*.

B. Present: Providing Legal Services to Children

Providing children with legal counsel increases the likelihood that the court will have access to all relevant facts in the case, be better positioned to make more accurate and informed decisions to promote the best interests of the child, and reduce the risk of making erroneous decisions.[14] Although there is not a federal requirement for legal representation of children in dependency proceedings, recent developments reflect evolving notions of a child's constitutional right to counsel.

In 2005, a landmark ruling from a federal district court in Georgia moved the issue of legal representation of children into the forefront.[15] That court embraced the notion that abused and neglected children have a constitutional due process right to legal representation. As the court observed, "[i]t is well settled that children are afforded protection under the Due Process Clauses of both the United States and Georgia Constitutions and are entitled to constitutionally adequate procedural due process when their liberty or property rights are at stake."[16]

The Georgia court not only endorsed the right to legal representation for children in child welfare proceedings, but also emphasized that these rights are meaningless unless we ensure that counsel is *effective*. The Court recognized that the goal of assuring effective legal counsel for children cannot be achieved without minimum training, competency standards, and reasonable caseloads.

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12. 42 U.S.C. § 5103a(b)(2)(A).

13. For a state-by-state review of representation laws visit http://www.naccchildlaw.org/childrenlaw/documents/LegalRepresentationChart-ABA2005.pdf.

14. *See generally* Bruce A. Green & Bernardine Dohrn, *Ethical Issues in the Legal Representation of Children*, 64 FORDHAM L. REV. 1281 (1996) (discussing the ethical complexities in child welfare law).

15. Kenny A. v. Perdue, 356 F. Supp. 2d 1353 (N.D. Ga. 2005).

16. *Id.* at 1359.

In 2006, the National Conference of Commissioners on Uniform State Laws adopted the Uniform Representation of Children in Abuse, Neglect, and Custody Proceedings Act.[17] An underlying premise of the act is that an attorney should be appointed for every child who is the subject of an abuse or neglect proceeding.[18] Although the act is a source of debate among child advocates,[19] it reflects a growing public awareness of the unique legal challenges facing children and the necessity that children receive quality legal representation.

1. Unique Challenges of Providing Legal Services to Children

Child maltreatment impacts children of all ages, races, religions, cultures, and communities. Each year, approximately four million children are reported abused or neglected nationwide.[20] Of those reports, nearly one million cases are substantiated.[21] At any given time over a half-million children are living in the foster care system.[22] The legal proceedings involving these children often determine the course of their lives. Serving as a lawyer for these children is an awesome responsibility.

"I think the court system would have more effectively worked for me if my voice could have been heard. You see," reported a foster youth, "they never asked, 'What do you want?,' 'Are you a part of this service plan?,' 'Is the [social] worker providing services for you?' No one thought about me . . . I felt like no one cared."[23]

Child clients are the most vulnerable of any, and the decisions made in court literally set the course for every aspect of

17. UNIFORM REPRESENTATION OF CHILDREN IN ABUSE, NEGLECT, AND CUSTODY PROCEEDINGS ACT (Nat'l Conf. of Comm'rs on Unif. State Laws 2006), *available at* http://www.law.upenn.edu/bll/archives/ulc/rarccda/2006_final act.pdf.

18. *Id.* at 1–11.

19. *See, e.g.*, Jane M. Spinak, *Simon Says Take Three Steps Backwards: The National Conference of Commissioners on Uniform State Laws Recommendations on Child Representation*, 6 NEV. L. REV. 1385 (2006).

20. U.S. DEPT. OF HEALTH & HUM. SERV., CHILD MALTREATMENT 21 (2003), *available at* http://www.acf.hhs.gov/programs/cb/pubs/cm03/cm2003.pdf

21. *Id.*

22. U.S. DEPT. OF HEALTH & HUM. SERV., ADOPTION AND FOSTER CARE REPORTING AND ANALYSIS SYSTEM REPORT #10: INTERIM ESTIMATES FOR FISCAL YEAR 2003 at 1 (2006), *available at* http://www.acf.hhs.gov/programs/cb/stats_research/afcars/tar/report10.pdf.

23. Interview by Leslie Starr Heimov with foster youth in Denver, Colo.

children's lives. The entire future of these children—their family relationships, physical safety, health, mental health, education, and home—are at stake. To provide them with any less than the highest level of representation cannot be justified and should not be tolerated.

Often, youth do not understand what is happening to them. They do not know where they will sleep each night or what school they will attend the next day. Children typically come into the foster care system with significant physical and mental health problems, which are then exacerbated by the lack of attention paid to both.[24] Because the child welfare system may not attend to all of these needs, lawyers for children have a responsibility far broader than that of an average attorney.

The very young client has no ability to make an informed judgment about the quality of the legal service they are receiving. When an adult is unhappy with her lawyer she can fire the lawyer and hire a new attorney. Even in a publicly funded situation, there are steps an adult can take say, "I don't think my lawyer is doing a good job for me."

Even an older child can make only limited efforts in trying to assess or monitor the quality of advocacy provided. Unless the child is represented by a qualified, knowledgeable attorney, one who knows the child and can address the child's views and interests, the court's life-changing decisions may be made without adequate input from or advocacy on behalf of the youth.

"The courts don't care where you want to go," said a foster youth in California. "Once you are in the system, your life is in their hands not yours."[25] Another teen agreed, "The child doesn't really have a say in what happens."[26]

Youth around the country express repeatedly that the system designed to protect and nurture them has left them feeling abandoned, has inflicted additional trauma upon them, and has failed to meet even their most basic needs. Research examining outcomes for foster youth paints an equally dismal picture: over one-third of foster youth earn neither a high school di-

24. Lisa Kraimer-Rickaby & Preston A. Britner, *Providing Child Care for Foster Children with Special Needs*, CHILD CARE CTR CONNECT., Mar.–May 2000, at 1, *available at* http://www.canr.uconn.edu/ces/child/pdf/CCC93.pdf.

25. Home at Last, *My Voice, My Life, My Future: Foster Youth Participation in Court: A National Survey* (2006).

26. *Id.*

ploma nor a GED;[27] one-third of youth who age out of the foster care system evidence mental health problems;[28] and over one-fifth of foster youth will become homeless at some time after turning eighteen.[29]

The National Commission on Children observed, "If the nation had deliberately designed a system that would frustrate the professionals who staff it, anger the public who finance it, and abandon the children who depend on it, it could not have done a better job than the present child-welfare system."[30] That is the system we are counting upon to take care of our clients' needs outside of the courtroom.

C. Future: The Necessity for Greater Specialization

Child welfare law is complex and requires a great breadth and depth of knowledge. As the practice becomes even more sophisticated, and as the child's right to due process is appropriately given greater respect, the need for specialization, advanced skill, and structural support is increasing.

A child welfare practice requires proficiency in a variety of areas, including: child development; special education; community resources; substance abuse; social work and investigation; domestic violence; grief and mourning; public benefits; health care; negotiation and mediation skills; legal research and writing; and trial skills.

In order to achieve the desired and necessary level of expertise in the varied disciplines that bear on child welfare cases, it is essential that attorneys devote their attention to the full time, exclusive practice of this specialty. One attorney commented, "As to the expertise of this area, it is truly specialized and cannot be learned until you are literally in the thick of it."[31]

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27. Mark E. Courtney, et al., *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age Nineteen* 21 (May 2005), *available at* http://www.rikidscount.org/matriarch/documents/Midwest%20Evaluation%20of%20the%20Adult%20functioning%20of%20former%20foster%20youth%281%29.pdf.

28. *Id.* at 41.

29. Casey Family Programs, *Improving Family Foster Care: Findings from the Northwest Foster Care Alumni Study* 37 (2005), *available at* http://www.casey.org/NR/rdonlyres/4E1E7C77-7624-4260-A253-892C5A6CB9E1/923/CaseyAlumniStudyupdated082006.pdf.

30. NATIONAL COMMISSION ON CHILDREN, BEYOND RHETORIC: A NEW AMERICAN AGENDA FOR CHILDREN AND FAMILIES (1991).

31. Children's Law Center of Los Angeles, *Loan Forgiveness Survey* (2005).

It could be argued that anything beyond the courtroom is not the lawyer's responsibility. The lawyer's responsibility as a zealous advocate is to see that the petition is fairly adjudicated, that state and federal law is complied with, that the court makes reasonable decisions, that the orders are upheld, and that the child's wishes are heard. Attorneys in this practice area know full well that their responsibilities extend far beyond the walls of the courtroom. Some state statutes require that child welfare lawyers attend to the child's interests beyond the scope of the juvenile proceedings. In California, for example, lawyers are required to conduct an independent investigation into any issue where the child's interests may need to be protected.[32]

The requisite areas of expertise are both exhaustive and essential. Very few attorneys take child development classes in law school. Some lawyers may have children, younger siblings, or nieces and nephews, and may think that makes them experts in child development. What these lawyers really have expert knowledge of is the development of their children, nieces and nephews. This misimpression can be more dangerous than acknowledging a complete lack of information.

One very dramatic case illustrating this point involved a

32. Cal. Welfare and Institutions Code § 317(e) (2007) reads:
"The counsel for the child shall be charged in general with the representation of the child's interests. To that end, the counsel shall make or cause to have made any further investigations that he or she deems in good faith to be reasonably necessary to ascertain the facts, including the interviewing of witnesses, and he or she shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings. He or she may also introduce and examine his or her own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. In any case in which the child is four years of age or older, counsel shall interview the child to determine the child's wishes and to assess the child's well-being, and shall advise the court of the child's wishes. Counsel for the child shall not advocate for the return of the child if, to the best of his or her knowledge, that return conflicts with the protection and safety of the child. In addition counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may need to be protected by the institution of other administrative or judicial proceedings. The attorney representing a child in a dependency proceeding is not required to assume the responsibilities of a social worker and is not expected to provide nonlegal services to the child. The court shall take whatever appropriate action is necessary to fully protect the interests of the child."

toddler about ten months old. The mother found the toddler face down, submerged in the toilet. The toddler died, and the question was whether this was an accident or an intentional drowning. Some held firm that a child of this age could not possibly have gotten out of his walker, into the bathroom, up to the toilet, and fallen into the toilet. This family was in danger of being destroyed because there were those who believed it was impossible for that to have happened.

The case was resolved after a long, drawn-out trial, but the infant's four-year-old brother was separated from his family at a time where he was traumatized over the death of his younger sibling, and another baby born in the interim was detained at birth. Although it was ultimately found that the death was accidental, the family was torn apart. The system inflicted further trauma on a vulnerable family because of a lack of expertise in child development. This was both unnecessary and avoidable.

Knowledge about child development also impacts the court process with regard to interviewing children. Attorneys interview child clients every day. And every day lawyers ask children questions the children are not capable of answering. They do answer the questions, however, and attorneys believe that they have obtained accurate information and then rely on the information in forming opinions, making recommendations, and forming legal arguments on their clients' behalf.

It is not that the children are lying; it is that child welfare attorneys may be asking bad questions precisely because they are not trained child development experts.[33] Lawyers too often fail to form proper questions, taking into account a child's age and developmental ability, which may be lower for children who have been in a neglectful or abusive situation. Child welfare attorneys need to consider factors including: the child's level of trauma; the child's environment; the child's cognitive ability; the language is spoken at home compared to the language the lawyer is speaking; the child's reliance on slang or local vernacular; and many other qualifiers. Attorneys on their own, or doing this work as a portion of their practice, cannot possibly acquire these skills until they have years of experi-

33. *See generally* ANN GRAFFAM WALKER, HANDBOOK ON QUESTIONING CHILDREN: A LINGUISTIC PERSPECTIVE (2d ed. 1999); Thomas D. Lyon, *Questioning Children: The Effects Of Suggestive And Repeated Questioning*, SUGGESTIBILITY OF CHILDREN AND ADULTS (J. Conte ed., 1999).

ence. They certainly do not possess them their first day on the job, yet the child cannot wait for their attorney to learn in pieces over time. A child cannot wait years, months, or even weeks while the sole practitioner or part-time professional learns on the job.

Special education is an area that has received increasingly more attention. National workgroups are looking at the educational challenges of children in foster care. Most lawyers coming to the practice child welfare law not only lack special education knowledge, a complicated and complex body of law primarily controlled by federal legislation, but they are not even familiar with the related red flags. Furthermore, it is well documented that the educational outcomes for children in foster care are abysmal.[34] There have been legislative efforts, both federally and in some states, to try to improve those outcomes, but to do so require a level of expertise and knowledge that can only be achieved in the agency model of representation.

Delinquency is another area of concern. Unfortunately, many older children in the child welfare system have run-ins with the law, often directly related to their history of abuse and neglect. Without a strong voice in court, these youth are far more likely than similarly situated peers to find themselves arrested, incarcerated, convicted or found delinquent, and subject to harsher penalties and poorer services than youth who are living at home with their parents.[35]

Research in California reveals the fact that children in foster care have reduced likelihood of being released into the community and increased likelihood of being found delinquent.[36] Without an advocate who is knowledgeable about children's needs and what the system can provide for them, attorneys may be neglecting the best interests and the legal

34. Casey Family Programs, *supra* note 29, at 35.

35. *See* Vera Institute of Justice, *Reducing the Foster Care Bias in Juvenile Detention Decisions: The Impact of Project Confirm* (2001) *available at* http://www.vera.org/publication_pdf/146_182.pdf. In New York, children in foster care are more likely to be held in detention prior to their hearings than children living with their parents. *Id.*

36. *See* Los Angeles County Children's Planning Council, *Youth in the Los Angeles County Juvenile Justice System: Current Conditions and Possible Directions for Change* 8 (2006), *available at* http://www.lapublichealth.org/childpc/resource-files/JuvJustice_yfa_Final4.20.6prot.pdf; Joseph P. Ryan et al., *Maltreatment and Delinquency: Investigating Child Welfare Bias in Juvenile Justice Processing* (working paper).

needs of their clients. Further, a well-meaning child welfare attorney who does not have the requisite criminal law knowledge may inadvertently, in an effort to be helpful, expose a child client to harsher criminal penalties and the potential loss of liberty and other serious outcomes.

Public benefits are a specialty area that is often overlooked. Children in the child welfare system may be missing out on supplemental social security income benefits, on disability payments, on survivor's benefits, or other supports. Their caretakers may not be properly or adequately funded nor given access to funds to which the youth are entitled. Children fail to get needed benefits because no one in the child's life is able to navigate the public benefits system, and lawyers may rely on a dysfunctional child welfare system to interface with an equally dysfunctional department of public social services to meet their clients' needs.

As informed advocates, attorneys need to consider a broad spectrum of scientific information. Lawyers must understand everything from attachment theory to adolescent brain development, along with all that lies in between. When child welfare lawyers make judgment calls based on personal experiences and intuition rather than on a thorough understanding of scientific information, they may make mistakes—sometimes without being aware they are making them. In an agency model, there is far greater opportunity to designate assigned staff to acquire scientific information and trainers to ensure that attorneys have access to the information.

Once there is institutional commitment to providing adequate legal counsel in child welfare cases, the problem remains in determining how that representation will be provided. Dedicated and passionate lawyers battle many systemic and organizational hurdles to serve as the "voice" in the legal system on behalf of children who might otherwise have little input regarding their future.

Representing abused and neglected youth is admittedly a difficult undertaking. When there is no agency model of oversight, the system relies on individual lawyers who answer to the judge, and accountability and monitoring are too often absent. There are inherent impediments, especially those related to dealing with very young clients. However, experience has demonstrated that an extremely effective delivery system is to be found in the establishment of an agency model.

III. ENVIRONMENT

The delivery of legal services to children varies from state to state, but generally most advocates are individual attorneys who receive court appointments to represent children on a case-by-case basis. Despite their best intentions, these advocates are often under-resourced, over-burdened by large case loads, and underpaid. Furthermore, panel attorneys are customarily employed by, and answer to, the judge who will be deciding the case. Clearly, this is an inherently flawed option, as the possibility presents itself that lawyers may engage in less zealous advocacy.

Some states have overcome concern about the panel attorney model by creating a statewide office responsible for hiring, firing, training, and monitoring the panel of lawyers. The Colorado Office of the Child's Representative may have been the first to initiate this type of panel representation, and others including Connecticut have adopted a similar approach. In Colorado, use of support staff to assist with legal questions, mandatory training, court observation, and file review, resulted in a great improvement on the traditional panel attorney model hired by the court. When elements of accountability and training are incorporated, there is significant improvement in the quality of representation.

Although many sole practitioners do an excellent job, it is a time consuming and often emotionally exhausting process. The premise of the Children's Law Office Project is that court-involved children experience better outcomes when they are represented by an attorney who has adequate training, compensation, access to resources, and staff expertise. It is rare to find this environment outside of a children's law office.

A. What is a Model Children's Law Office?

Like a public defender's office or a large law firm, a children's law office, whether it be a large government agency like the Public Guardian's Office in Chicago, a boutique law firm like Legal Services for Children in San Francisco, a traditional public defender's model as seen in New York City and San Diego, a large private non-profit law firm like the Children's Law Center of Los Angeles, a multidisciplinary practice dedicated solely to child welfare law exemplified by Kids Voice in

Pittsburgh, or a small office of lawyers working to improve practice in their jurisdiction, is optimally suited to ensure that best practices become the norm, rather than the exception.

A children's law office is, in many respects, similar to the structure of a children's hospital. This model provides a concentration of expertise, access to state-of-the-art tools of the trade including research, legal updates, and expertise from other disciplines, as well as opportunities to consult with colleagues who possess an array of skills. Lawyers knowledgeable in education, mental health, probate, and delinquency law will work together and support each other on behalf of the child client, thus providing a seamless continuum of legal and related services.

A large children's law office can allocate resources to conduct training classes for rookie lawyers, ongoing targeted continuing education classes, and regular case reviews. Absent the agency model, many critically important training topics could be addressed only sporadically or even overlooked.

Within the standards provided by the American Bar Association and the NACC, and in some jurisdictions local court rules or state statutes, there are certain defined standards of practice. However, without actual oversight and supervision, without looking at case files, observing the lawyers in the courtroom, and gaining a thorough understanding of the quality of representation actually provided, there is no way to have confidence that the standards are being met.

Only personal oversight can ensure that each child is receiving the same type of representation, coming from the same base of information, the same legal understanding and philosophy. The level of representation a child receives should not be dependent upon the calendar attorney of the day or whoever happens to be the next available attorney on the bar panel list. There should be oversight from within the agency in the form of self-monitoring.

Along with accountability, practice standards, and enhanced opportunities for training, children and families benefit most from an agency model that promotes consistency of representation, thus enabling better transitions among attorneys. If a child's lawyer changes, the child will continue to have the same firm representing him or her, and there will be greater ability to share information and hand over the case sensitively.

A child welfare attorney recounted, "Longevity is impera-

tive in this field. Many attorneys who represent children not only develop better skills over time, but also build strong relationships with their clients."[37] Children are often represented by multiple attorneys while they are under the jurisdiction of child welfare courts. The relationship between child and attorney is disrupted each time a new attorney assumes the case. "Having the same lawyer makes a big difference, because that person really knows you and you can trust them," related one former foster youth. "My lawyer was the only person I trusted."[38]

While there is a critical mass of efficiency for a children's law office, it is not necessary to have an office of one to two hundred people. Still, there should be sufficient attorneys and other staff to allow for specialization. It is not unusual for an attorney handling child protection cases to require the services of social workers and other professionals who can provide knowledge of related practice areas, including education, mental health, delinquency, and other specialties.

Additionally, there should be opportunity to develop professional mentorship. A number of lawyers acknowledge having felt adrift when they first started in child welfare law. New entrants into the field can often feel overwhelmed by the responsibility of representing a child in a proceeding where life-changing, and sometimes life-saving, decisions are made every day.

Another way that a children's law office can have an impact is in the ability to affect system reform and reduce challenges that attorneys face every day in court. In addition to advocating for individual children in court, a children's law office has the capacity to identify areas where policy changes and systemic reforms are needed and to work to bring about those more far-reaching advances. Children's law offices can also enhance public awareness within their community of the broader issues and concerns facing foster youth.

IV. THE FUTURE OF LEGAL REPRESENTATION OF CHILDREN

The integrity of each individual case and the integrity of

37. Home at Last, *Foster Children May be Paying a Price for Attorneys' Overwhelming Student Loan Debt* 2 (2005), *available at* http://fostercarehomeatlast.org/reports/LoanForgiveness.pdf.

38. Children's Law Center of Los Angeles, *supra* note 31.

the legal system, the child welfare system, and the court system are dependent in large part upon child welfare attorneys monitoring themselves and holding themselves to the highest standard possible. To accomplish that without the support of children's law offices is challenging at best, and more likely impossible.

A well-organized and well-managed children's law office is able to provide youth in the foster care system with consistent, stable, adequately supported, and effective representation by talented and devoted attorneys who are able to dedicate their professional life to this worthy field. The following Guidebook provides thirty-three best practice guidelines to help child welfare law offices obtain this goal. Our most vulnerable children deserve no less.

A. Using the Guidebook

The NACC recognizes that practice varies from jurisdiction to jurisdiction and the Guidebook is meant to establish baselines which lead to a high functioning, comprehensive, client-centered program. Offices are encouraged to work toward substantial conformity or compliance with the Guidebook and also to make thoughtful decisions when departing from the recommendations.

B. Getting Involved in the National Dialogue about Improving Practice

The long term goal of the Children's Law Office Project is to proliferate a model child welfare law office practice, which will in turn improve outcomes for thousands of court-involved children. The Children's Law Office Network provides a forum for national dialogue on improving the delivery of legal services to children. Practitioners interested in joining the network should contact the NACC.[39]

39. National Association of Counsel for Children, 1825 Marion St., Ste. 242, Denver, CO 80218; phone: 888-828-NACC; e-mail: advocate@NACCchildlaw.org; web site: www.NACCchildlaw.org.

APPENDIX

Children's Law Office Symposium Attendees, University of Colorado School of Law, January 18-20, 2007

A Center for Children & Family Law, Inc.
Orange, California
Sheryl Edgar
Sahar Douraghy

Administration of Families and Children, Family Dept.
San Juan, Puerto Rico
Benjamin Rivalta Lopez
Arlene Echevarria Rodriguez

Advocacy Inc.
Albuquerque, New Mexico
Beth Collard

Alameda County Bar Association
Oakland, California
Jane Dressler
Vanji Unruh

Alameda County Public Defender—Dependency Division
Oakland, California
Kristin Mateer
Rob Waring

Barbara J.P. Ciuffa
Kalamazoo, Michigan
Barbara Ciuffa

Barry University School of Law
Orlando, Florida
Gerard Glynn

Beijing Children's Legal Aid and Research Center
Beijing, China
Wendy Zhang

Brandes and Clark, P.C.
Littleton, Colorado
Lita Brandes

Center for Families, Children and the Courts
San Francisco, California
Christopher Wu
Leah Wilson

Children & Family Law Program
Boston, Massachusetts
Mike Dsida
Anita Sullivan

Children's Law Center of Los Angeles
Monterey Park, California
Leslie Heimov
Ivy Carey

Clark County Legal Services
Las Vegas, Nevada
Janice Wolf
Terry Bratton

Commission on Child Protection - Connecticut
Waterbury, Connecticut
Carolyn Signorelli

Cook County Public Guardian
Chicago, Illinois
Carol Casey

Corthell and King, P.C.
Laramie, Wyoming
Stacey Obrecht

Council for Children's Rights
Charlotte, North Carolina
Brett A. Loftis

Juvenile Law Group—Legal Aid and Defender Association
Detroit, Michigan
Regina Daniels Thomas
Denise McNulty

Kids Matter
Milwaukee, Wisconsin
Susan Conwell
Anita Cruise

KidsVoice
Pittsburgh, Pennsylvania
Scott Hollander
Jonathan Budd

Kidslaw—A Children's Rights Law Firm
Tucson, Arizona
Laurence M. Berlin
Constance P. Berlin

Legal Advocates for Children & Youth
San Jose, California
Jennifer Kelleher
Tamara Schane

Legal Aid Society—JAP & FCP
West Palm Beach, Florida
William Booth
Jim Walsh

Legal Aid Society of Milwaukee, Inc.
Milwaukee, Wisconsin
Shelia Hill-Roberts
Marcy Wichman

Legal Aid Society of the Orange County Bar Association
Orlando, Florida
Cara Dobrev

Legal Aid Society, Juvenile Rights Division
New York, New York
Tamara Steckler
Nanette Schrandt

Legal Services for Children, Inc.
San Francisco, California
Shannan Wilber
Kelli Nakayama

Mental Health Adovocacy Services
New Orleans, Louisiana
Margot Hammond

Office of the Child's Representative
Denver, Colorado
Theresa Spahn

Office of the Guardian ad Litem
Colorado Springs, Colorado
Debra Campeau

Office of the State Court Administrator
Denver, Colorado
Sheri Danz

Oklahoma Indian Legal Services, Inc.
Oklahoma City, Oklahoma
Colline W. Meek
C. Steven Hager

Pegasus Legal Services for Children
Albuquerque, New Mexico
Tara Ford
Liz McGrath

Sacramento Child Advocates
Sacramento, California
Robert M. Wilson

San Diego County Dept. of the Public Defender
San Diego, California
Ana Espana

Texas Lawyers for Children
Dallas, Texas
Cathy Morris

The Legal Aid Bureau of Buffalo, Inc.
Buffalo, New York
David C. Schopp
Pamela L. Neubeck

University of Colorado Law School—Juvenile Law Clinic
Boulder, Colorado
Colene Flynn Robinson

Voices for Children St. Louis
St. Louis, Missouri
Mary Beth Wolff
Ashley Beumer