

Tips & Tools for Providing High-Quality Legal Representation to Children and Parents in Child Welfare Proceedings

Out-of-Court Advocacy

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In 2017, the Family Justice Initiative (FJI) identified fundamental attributes of high-quality legal representation for parents and children in child welfare proceedings. The [FJI Attributes of High-Quality Legal Representation](#) draw from and build upon existing practice standards¹ for attorneys representing children and parents in child welfare proceedings, and findings and recommendations from the U.S. Department of Health and Human Services, Children's Bureau, National Quality Improvement Center on the Representation of Children in the Child Welfare System,² and the Administration for Children and Families.³ Out-of-court advocacy is one of the attributes.

Introduction

Out-of-court advocacy is critical in every child welfare legal proceeding. As an attorney for the child or parent, you must be a highly skilled litigator and be willing to use the court process to meet your client's goals. You must also be skilled in out-of-court advocacy. Out-of-court advocacy encompasses traditional legal work, such as investigating facts, interviewing witnesses, consulting experts, and using discovery. It also goes beyond that traditional work. When a child protection case focuses on past facts to determine if a child was abused or neglected, the out-of-court work you undertake is similar to the work in other areas of law. You may talk to fact witnesses, review records, consult experts, and gather discovery to learn what happened in the past. However, when the case focuses on the family's future, including the child's safety, permanency, well-being, where a child will live, and who will care for the child, out-of-court work moves beyond traditional legal advocacy. Underlying all of this work is the fact that a family's

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Child welfare cases often last a long time. The family's situation may change throughout the case and is often impacted by factors external to but intertwined with the child welfare case. These factors include multigenerational poverty, trauma, and racism. As an attorney for parents

The Legal Representation Team

A key attribute of high-quality legal representation for families is access to a legal representation team that includes social workers, peer parents or youth advocates, and experts. Nonattorney team members play a key role in out-of-court advocacy and can be as impactful, if not more so, than attorneys' advocacy in court.

or children, it is important to understand these issues and consider them when continuing your out-of-court advocacy. This includes pursuing investigation and negotiation and adjusting your case theory and client counseling as new facts emerge. Most importantly, engage with your client regularly to understand the client's needs. For example, some parents visit regularly with their children immediately after separation. Others do not. Some want to visit more but are frustrated by barriers. Some children respond well to a certain type of therapy, while others resist. To provide the best possible representation, you must be aware of these and many other issues to advocate effectively for your client.

Your role as the attorney, and the legal representation team's role (see box), is not to merely observe or record these events. You must communicate effectively with the client, caseworkers, and others to support and empower clients to reach their goals. Sometimes this means learning new ways to communicate—such as motivational interviewing—to listen and work with the client to develop potential solutions. It can mean talking with a client or other family members to understand the child's family structure and kin relationships. It may mean learning why the child welfare agency is providing certain services and challenging them at

child and family team meetings or in administrative hearings. In these and other situations, it means sharing out-of-court information with the court in a meaningful way.

This guide:

- examines out-of-court advocacy at the fact-finding stage and advocacy to achieve the client's goals about returning home, placement, services, and family connections; and
- provides discussion, tips, tools, and strategies you can use to enhance your out-of-court advocacy to help your clients achieve their case goals.

Out-of-Court Advocacy Strategies

Engage with and know the client.

Building rapport with and consistently striving to understand your client and the client's goals is the cornerstone of high-quality legal representation for parents and children in child welfare proceedings. Parents and children are often disempowered by and distrust the child welfare system and child welfare professionals, including their lawyers. It is critical to ensure your clients understand your role is to advocate for their wishes and that you have ethical duties to them. You must also fully embrace your role as a legal counselor and keep your clients informed of evolving facts and decision points, regularly and clearly explain their options, and ensure they understand the case plan.

Legal experts emphasize that parents' and children's attorneys must tell the client's story,⁴ which is otherwise narrated by the child welfare agency and focused primarily on families' shortcomings. Effectively advocating for what your client wants and providing a full picture of your client's strengths and needs requires investing regular time in your relationship with your client. Investing this time builds trust, reinforces your role as the client's advocate, and helps you understand your client's perspective, experiences, challenges, and strengths.

Special Considerations for Parents' Attorneys:

- ✓ **Leave space for your clients to ask questions.** You will likely meet your client for the first time during an incredibly stressful and traumatic moment in the case after your client has already been interviewed by agency social workers and others. Understandably, your client may not fully understand your role or the child welfare process immediately and the client's reactions to you may be impacted by trauma. Ensure your client understands it is not necessary to immediately understand everything and that you and your team will be available to answer questions or explain the process again.

Special Considerations for Children's Attorneys:

- ✓ **Explain your role to child and youth clients.** Despite growing consensus among academics, national experts, and many practitioners that client-directed representation is the most appropriate model of representation for verbal children who can express a point of view,⁵ in most jurisdictions children's legal representation in child welfare cases is not client directed.⁶ Make sure your child clients understand there are times when you may not advocate for their wishes, despite your duties of loyalty and confidentiality. Failure to clarify expectations on these issues may lead to a substantial breakdown of trust between you and your client.
- ✓ **Help clients understand the child welfare legal process** by explaining things in age-appropriate language. Build rapport with clients, including encouraging them to set goals, ask questions, and work collaboratively to develop a case narrative that helps them achieve their goals.⁷

Practice Tips:

- ✓ **Schedule client meetings outside the courthouse.** With limited time and large workloads, you may find yourself fitting in client meetings at the courthouse between hearings. This is not best practice for getting to know your client and building an effective attorney-client relationship. Courthouses also are busy and difficult places to have private conversations. Ideally, meet regularly with clients outside the court setting, in a private place where the client feels comfortable. Sometimes this will mean setting up regular meetings at your office. You may also want to meet clients outside an office setting. For example, if you represent children consider setting up meetings with your clients in their placements or schools, depending on clients' comfort level meeting you at these locations. At a minimum, meet clients before and after all court hearings to ensure you understand their goals for the hearing and they understand what happened during the proceeding.
- ✓ **Engage in and appreciate how your client identifies.** Ask what name and pronoun your client prefers. Approach the family with cultural humility by providing language accommodations and respecting spiritual beliefs and culture. Make sure the child's name is pronounced correctly and make note of special dates for the family. Do not allow the court or other parties to refer to your client as "mom," "dad," or "minor child" or similar terms that dehumanize them. Also avoid

scheduling hearings or meetings at times that do not accommodate your client's needs and schedule.

- ✓ **Use active listening and motivational interviewing techniques.** To ensure client meetings are effective, use active listening and consider using motivational interviewing techniques (see [Motivational Interviewing: Counseling Clients in Challenging Contexts](#)). Interdisciplinary team members trained in these techniques can play a key role in learning about and from the client and can help you improve your client interactions. In Santa Clara County, California, social workers with Dependency Advocacy Center help train parents' attorneys to conduct meaningful meetings with clients.
- ✓ **Include social workers and people who have experienced the child welfare system on the interdisciplinary legal representation team** to help clients learn to trust their legal representation and the child welfare legal process. These team members know how to relate to clients, so they feel comfortable sharing their goals and directing the representation. Legal team members who have experienced the child welfare system can build trust with clients by letting them know that they have been in the client's shoes. For example, the Children's Law Center of California hires former foster youth as peer advocates who meet clients before court hearings. Peer advocates who share their own child welfare system experiences help build trust and rapport with the client. Peer advocates also help clients understand the legal process and access available services.⁸

Knowing and understanding the client, includes understanding trauma and its impact on clients.

Understand trauma and the client's trauma history.

Knowing and understanding the client, includes understanding trauma and its impact on clients. The trauma of child welfare involvement and family separation is tremendous. Children who are removed from their primary caretaker may have significant damage to their physical and mental health and have worse long-term outcomes than similarly situated children who remain home.⁹ Trauma response may impact children's ability to understand the court proceedings, as well as their education and placement stability.¹⁰

Parents also experience trauma when children are removed, often coupled with shame and increased isolation.¹¹ Additionally, many parents have their own history of

Preparing Clients for Court

Explaining to clients before court who will be in the courtroom and what their role is, can help clients feel more comfortable when they go into court. Peer parents or youth advocates know how disorienting the courtroom experience can be for nonattorneys and can help ease client stress with the court process.

trauma unrelated to the child welfare case. This can make addressing issues that led to child welfare involvement more challenging and affect parents' ability to absorb and understand the court process and engage in services.

Practice Tips:

- ✓ **Be aware of how trauma impacts your clients.** Educate the court, child welfare agency, and the child's caregiver about the impact of trauma on your client. When people are experiencing significant trauma, it is not unusual to have to go over things multiple times before the person can absorb the information. This is why regularly meeting with clients outside of court hearings is so important and why an interdisciplinary legal representation team can be valuable when available. Social workers, team members who have experienced the child welfare system, and expert clinicians, as needed, can help:
 - recognize and address trauma responses that are impacting clients' participation or progress;
 - provide psychosocial education to caregivers, the client, or the court that reframes client behavior and improves understanding of the clients' needs;
 - vet services and programs to assure they use a trauma-responsive model appropriate for the client's needs; and
 - be aware that the case itself is a new source of trauma for the family.
- ✓ **Elicit historical information in a trauma-responsive manner.** There may be times when you need information related to your client's trauma history for litigation or to ensure the case plan responds to your client's needs. Learn about trauma and how to elicit information in a trauma-responsive manner. If you work with a multidisciplinary team, consult with that team to determine who is best suited to gather this information and to lead difficult conversations.

- ✓ **Value your clients as experts on their experiences and needs.** Often parents and children are the best sources to explain past trauma and identify what can help them address that trauma.
- ✓ **Consult resources** on understanding the trauma of family separation and its impact on clients.¹²

Meet and communicate regularly with your client.

Regularly meeting and communicating with your client is essential to providing high-quality legal representation. A common disciplinary complaint about attorneys is not communicating with clients.¹³ Research shows that communication is something foster youth most want from their attorneys.¹⁴ At a minimum, communicate with your clients before and after court hearings.

Before any court hearing, discuss with your clients any child welfare agency recommendations and reports, how things are progressing from the client's perspective, and the client's goals for the hearing.

After hearings, communicate with clients to ensure they understand what happened in the court hearing and what the next steps are for moving the case forward. Address any questions or direction from the client and discuss how the client can contact you if further questions arise. Set reasonable expectations around how quickly you will be able to respond to a communication from your client.

Between hearings, communicate regularly with clients. Progress in child welfare proceedings typically is driven by the court calendaring of cases. Children do not often return home between court hearings and child welfare professionals wait for scheduled review hearings to change placement or visitation orders. Adhering to this sort of schedule can cause children to stay in care longer than necessary or result in case plans that no longer meet the families' needs.

If you regularly communicate with clients, including getting updates on family well-being, visitation, and services, you are in a better position to drive cases forward. For example, if you communicate regularly with your client and learn that the client has made progress with the service plan, you can bring a motion to the court for the child's return home sooner, rather than waiting for a preset six-month review hearing date.

Practice Tips:

- ✓ **Identify your client's communication preferences.** At your first meeting, ask how your client prefers to communicate. Ask if the client responds to text, email, and social media messages. While text and emails cannot substitute for in-person meetings and phone

calls, these can be effective to augment communication with the client. Ask clients how often they would like to hear from the representation team and work together to develop a communication plan with regular check-ins. You should communicate with clients at least monthly.

- ✓ **Legal team members can also explore alternative ways to communicate with clients.** For example, East Bay Family Defenders in Alameda County developed a series of YouTube video tutorials for clients about the remote hearing process during the Covid-19 pandemic, as well as general court information.
- ✓ **Use your interdisciplinary team to enhance communication with your client.** Social workers or other interdisciplinary team members can do weekly/bi-weekly check-ins with the client to ensure communication remains open and any updates or concerns on cases are being addressed before the court hearing. If issues arise that may impact the legal case, consider holding a joint conference call or in-person meeting with a social worker/other member of the team along with the client's attorney. Having both levels of support available to the client at once can be beneficial.

Special Considerations for Parents' Attorneys:

- ✓ **Ensure your client has access to information about their child.** Just as the child's attorney should ensure the client has needed items at the placement, ensure your parent client is able to provide special items to their child, such as pictures, favorite toys, and clothing. Ask about visitation preferences and ensure the client can invite other important people to those visits. If your client would like increased virtual contact with their child, advocate for daily virtual contact so the parent can interact with the child for a few minutes. Regularly communicate with them about whether they are receiving timely and updated information about their children and advocate for increased access wherever possible and appropriate.¹⁵

Special Considerations for Children's Attorneys:

- ✓ **Ensure the child's needs are being met.** If a child client has been removed from the home, make sure the client has needed items at the placement, including clothes, schoolwork, favorite toys, etc. If not, work with the child welfare agency and parent attorneys to arrange for the client to get missing items. Helping clients with concrete needs early in the attorney-client relationship builds rapport and trust.

Counsel clients on all legal matters related to the case.

Explain the legal process to clients, including the allegations that brought the client's family into the child welfare system, case plan recommendations, timelines for family reunification, and consequences of failed family reunification, including the potential for termination of parental rights and adoption.

You have a duty to advise clients based on your professional opinion of the best course of action, and to advocate for the client's wishes, even when the client chooses a course

Ideally, if you are providing high-quality legal representation, you and your client will have a professional relationship built on trust and mutual respect.

of action that is not consistent with your advice. While you may decide the litigation strategy independently, you cannot decide to settle a case or to "submit" to the child welfare agency's recommendations without direction from the client. Ideally, if you are providing high-quality legal representation, you and your client will have a professional relationship built on trust and mutual respect. This will put you in a better position to counsel the client and together formulate a plan to achieve the client's goals.

Practice Tips:

- ✓ **Continually work on building rapport with clients.** Ask clients their thoughts and wishes repeatedly. Make sure they are comfortable expressing their opinion and you understand their wishes.
- ✓ **Ensure clients feel comfortable directing the representation.** Some children and youth may not be accustomed to challenging adult authority figures, including attorneys. Adult clients may also be inclined to defer to you, as the expert, even if they disagree. To ensure clients are comfortable expressing their opinions and goals, including goals for representation, regularly explain the attorney-client relationship and that you work for the client.
- ✓ **Give your client the time and information to make an informed decision.** High caseloads and limited time can make it difficult to prioritize cases that are not immediately before the court, but it is essential that you give your client the time and information they need to make decisions about the trajectory of the case. You

should not ask your client to make an important decision before they have had time to process the information and ask questions.

- ✓ **Work through differing views on the case goal.** A common question when representing children is: "What do you do if a client insists on returning home and you believe it is unsafe or not in the child's 'best interest?'" Parents' attorneys may similarly experience tension when their client insists on a course of action that the attorney believes will not accomplish that client's stated long-term goal. In practice, this can often be resolved through client counseling. Attorneys are not solely mouthpieces for their clients' positions, whether representing children or adults. You can and should talk with the client to strategize about how their short-term actions could impact their long-term case goals. After listening to and strategizing with the client, you may learn that your belief that the child is unsafe or that the client's desired action will derail their case is not correct. Ideally, you and your client can develop a plan together to achieve the client's goals and address your concerns that the client's wishes are not in the client's "best interest."
- ✓ **Talk to the client's service providers,** including the child's substitute care provider and therapist (if applicable), to help you understand the client's goals.

Approach your client's case with a sense of urgency.

As stated above, family separation is traumatic to children and parents, and in most cases families are anxious to reunite as quickly as possible. Similarly, where the focus is on permanence - either with the child's family of origin or in another permanent plan - termination of jurisdiction and legal permanence are important to the child and the family's sense of security and stability.

Approach your clients' cases with the same sense of urgency that your clients have. Be mindful of the potentially devastating authority of child welfare courts to permanently terminate parental rights and the damage to children who frequently change placements and schools, lose contact with siblings and their communities, and whose family bonds are severed. Make every effort to quickly advance your client's goals and prevent court or service delays from keeping families apart.

Practice Tips:

- ✓ **Devote advocacy to the early stages of the case.** The Center for Family Representation (CFR) in New York

finds that an immediate and urgent focus on placement, visitation, and services in the first 60 days after family separation supports family reunification.¹⁶ CFR's "Cornerstone Advocacy" focuses intensive advocacy in the first 60 days of a case on: (1) family time or visits that are as frequent and as long as possible and closely mimic family life; (2) placements that support the child's connection to family and community; (3) services that address the parents' and child's strengths and needs; and (4) conferences and meetings that provide meaningful opportunity for parents and children to participate in their case planning.¹⁷

- ✓ **Do not wait for court hearings to receive updates on your client.** In many jurisdictions, review hearings occur only every six months, and even in those jurisdictions where review hearings occur more often, waiting for a hearing to take action on a case can lead to unnecessary delays in achieving reunification. If you are able to gather information more frequently, you can use motions practice or out-of-court advocacy strategies to drive your client's case forward rather than letting the agency set the pace.

Conduct a thorough and independent investigation.

You cannot rely on reports from the child welfare agency as the only source of information about your clients' families. In addition to meeting with your clients regularly, routinely gather information from other stakeholders including service providers, relatives and friends, and school professionals. Before reaching out or interviewing others, discuss the investigation plan with your client and ensure the client is comfortable with the plan.

In addition to interviewing relevant stakeholders, use the discovery process to get a fuller and more accurate picture of the child welfare agency's investigation into the family. Social worker case notes and contacts can often provide critical information about the family that is not captured in court reports. Children's and parents' attorneys should also consider seeking discovery from each other, when doing so furthers their clients' goals and does not open clients to unintended litigation risks.

Regularly use experts when their opinion can help achieve the clients' goals. Experts can also serve as consultants on a case. For example, work with consulting social worker experts to help develop appropriate case plans or identify appropriate services for clients. In many jurisdictions, failure to use experts is ineffective assistance of counsel.¹⁸

Practice Tips:

- ✓ **Work with your local courts and agency counsel to streamline the discovery process, if possible.** Some jurisdictions have standing local court rules that require the child welfare agency to turn over all social work case notes and contacts within a time period upon request by parents' or children's counsel. Arrangements like this can help streamline the discovery process and prevent time-intensive discovery disputes.
- ✓ **Secure funding for experts.** Experts can be expensive, and you may struggle to get the court to pay for expert services. Ideally, offices of parent and children representation will pay for needed experts on cases. If you practice outside of an established office of parent or child representation, seek funding from the agency overseeing their appointment or from the court and argue that funding for experts is essential to performing your ethical duties to clients. You may be able to obtain expert assistance on a pro bono basis through local universities or national networks, although this will be rare and is not a substitute for sufficient funding for experts.
- ✓ **Stay informed about services provided to clients, as well as safety and risk assessments conducted by the child welfare agency.** Knowing the elements of services and assessments provided, will give you better insight when cross-examining providers or challenging removal and placement determinations. Social worker team members can be critical to understanding service array, client engagement, and safety and risk assessment and can provide a crucial counterweight to the child welfare agency's opinions.

Approach each case as an occasion to learn or re-learn the relevant legal framework, and as an opportunity to push the law to meet the client's goals.

Research relevant legal issues and legal arguments.

Have an underlying knowledge and understanding of relevant state and federal laws and regulations impacting families, as well as relevant rules of evidence and procedure. Be careful not to assume that the way things are always done in your jurisdiction or court is correct or complies with existing laws and rules. Laws and policies are constantly evolving, through statutory or administrative change, and through case law developments. Approach each case as an occasion to learn or re-learn the relevant legal framework,

and as an opportunity to push the law to meet the client's goals.

Practice Tips:

- ✓ **Regularly review relevant state and federal child welfare statutes and understand the key elements.** Be careful not to make assumptions about what the law requires based on practice in the community. For example, a jurisdiction's child welfare agency may have a practice of filing neglect petitions when parents engage in domestic violence, even when the violence occurs outside the presence of the child. The court may believe this constitutes neglect and have a practice of sustaining these allegations. However, the statute may actually require that the child be at risk of physical harm and present when the violence occurs. Reviewing the statute in this case, rather than assuming the court and agency know the law, could be an opportunity to make sure the law is followed for the benefit of your client.
- ✓ **Research relevant case law.** While subscriptions to Westlaw or LexisNexis can be expensive, both search tools typically provide negotiated discounted rates to solo practitioners. Other legal research tools such as [Fastcase](#) may be acceptable low-cost options. Offices of legal representation can assign one or two attorneys to be responsible for following newly released state and federal court opinions, as well as statutory changes, and sharing updates office-wide.
- ✓ **Engage with the broader child welfare legal community.** Consider joining professional organizations, listservs, and other legal community networks that offer a broader perspective on child welfare law and practice.¹⁹

Engage in case planning and advocate for appropriate services and regular visitation.

Unlike in criminal cases, where the attorney's role diminishes after the allegations are adjudicated and the disposition is decided, in child welfare proceedings the parents' and children's attorney role continues until the case is dismissed. You must ensure your clients have access to appropriate services and family visitation and continue to move the case forward to meet your clients' goals after the initial crisis of removal has passed. If the agency child welfare team has not connected the client to the appropriate level of services, you or the social workers on your team can work with the client to identify the barriers to seeking treatment. Social workers and clients can find treatment providers together. The client

can then present this information to their child welfare caseworker to see if it is deemed appropriate. This will show that the client is making efforts individually.

Because the initial removal of a child from the child's parents is so traumatic, it is easy to become complacent as the family appears to adjust to their separation. However,

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you have an ongoing duty to continue working outside of court to help your clients succeed with their case plans. Continue to regularly check-in with clients, service providers, and the child welfare agency to see what is going well and where adjustments or accommodations should be made to meet the client's goals. In most cases the clients' goals for both parents and children will be to successfully reunify.

Practice Tips:

- ✓ **Engage interdisciplinary team members in case planning.** Interdisciplinary team members play a key role ensuring clients' have case plans that meet their goals, including frequent visitation that closely mimics family life. For example, legal team social workers can deal with bureaucratic barriers that may prevent a client from accessing housing assistance or family therapy. Social workers also can observe family visits and provide clinical justification to move visits forward. Peer partners and advocates also help families remain engaged in the child welfare process by mentoring clients, empowering them to advocate for themselves, and providing hope that it is possible to successfully navigate the system.

Special Considerations for Parents' Attorneys:

- ✓ **Regularly assess your client's understanding of and comfort with the case plan.** Ensure your client understands why the case plan includes certain services and requirements. Work with your client to access those services or to change a case plan that will not lead to reunification. As a case progresses and as you build rapport with your client, a service that once made sense may no longer be appropriate.

Special Considerations for Children's Attorneys:

- ✓ **Continue your representation until the child achieves permanency.** Unlike parents' attorneys whose representation typically ends if parental rights are terminated, if you represent children your representation should continue until a child achieves permanence. In some instances, this can take years. Remain engaged and vigilant in helping your clients achieve their case goals. This includes communicating often, and advocating for appropriate family connections, services, education, and permanency for the client. Also know whether your jurisdiction has a reinstatement of parental rights statute²⁰ and evaluate whether that is an appropriate option for clients who have not achieved permanency through adoption.

Engage in systems advocacy to change policies and practices for the benefit of clients.

Engage in systemwide advocacy to change policies and practices that benefit clients generally. This can include working with courts to develop court rules, engaging with client-driven reform groups such as the Child Welfare Organizing Project and California Youth Connection, participating with Citizen Review and Child Fatality Review panels, and participating in Child and Family Service Review Teams and Court Improvement Program committees.

Interdisciplinary team members who have experienced the child welfare system firsthand have an important role to play in systems change. They often are the most effective systems change leaders on the legal team. Peer partners and youth advocates can provide training for new child welfare agency social workers, CASAs, and judges, providing critical insight into how families experience the child welfare system. Team members who have experienced the child welfare system are often effective advocates for legislative change.

Working to improve the child welfare system can benefit families and ensure they are treated fairly. It can also build social capital with judges and child welfare agency staff, which can help your advocacy on individual matters.

Practice Tips:

- ✓ **Involve the local community in systems reform.** It may be easiest to start with your local community. One strategy is to contact your local child welfare agency and ask to be involved with social worker trainings or workshops. This can lead to greater involvement with policy development.
- ✓ **Engage with your state or local bar association.** One way to get involved with systems advocacy is through your local or state bar association. Many state bar associations include access to a justice workgroup or children's task force. Find out if your state bar is working on child welfare or access to civil indigent defense and ask to participate. Finally, joining and volunteering with national professional organizations, like the American Bar Association²¹ and the National Association of Counsel for Children, can be a great way to learn about systems advocacy and network with others doing similar work around the country.

Conclusion

Out-of-court advocacy can help make the difference between prolonged family separation or safe and stable family reunification. As an attorney for parents or children, you have an obligation to build your litigation skills and legal knowledge, and to engage in zealous out-of-court advocacy. While out-of-court advocacy goes beyond traditional legal work, it is no less critical to ensuring a fair and just outcome for clients than advocacy within the courtroom. To learn more about the FJI and to join an FJI workgroup, visit familyjusticeinitiative.org.

Thank you to the FJI Quality Workgroup members who provided input and expertise on this guide.



The FJI unites professionals from around the country to ensure every child and every parent has high-quality legal representation when child welfare courts make life-changing decisions about their families. Through the FJI's work, child welfare lawyers, researchers, judges, social workers, policymakers, families impacted by abuse and neglect, and others are reenvisioning how to best protect children, strengthen families and support communities.

Endnotes

¹ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases (American Bar Association, 2006); ABA Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases (American Bar Association, 1996); NACC Recommendations for Representation of Children in Abuse and Neglect Cases (National Association of Counsel for Children, 2001). <https://www.americanbar.org/groups/public_interest/child_law/resources/practice-standards/>

²Duquette, Donald N. *Children's Justice: How to Improve Legal Representation for Children in the Child Welfare System*. American Bar Association, 2016.

³ACYF-CB-IM-17-02: Information Memorandum: High-Quality Legal Representation for All Parties in Child Welfare Proceedings. U.S. Dep't of Health & Human Servs., Admin. for Children & Families, January 17, 2017.

⁴See e.g., Children's Justice, *supra*, note 2; see also Fraidin, Matthew I. "Changing the Narrative of Child Welfare," *Georgetown Journal on Poverty Law and Policy*, 2012.

⁵See e.g., Duquette, 2016.; "Recommendations of the UNLV Conference on Representing Children in Families: Child Advocacy and Justice Ten Years After Fordham," *Nevada Law Journal* 6, 2006, 592.; ABA Model Act Governing the Representation of Children in Abuse, Neglect and Dependency Cases, adopted by ABA House of Delegates on August 8, 2011.

⁶See e.g., First Star and Children's Advocacy Institute. *A Child's Right to Counsel: A National Report Card on Legal Representation for Abused and Neglected Children*, 3rd Ed., May 2019, 10. <<http://www.firststar.org/wp-content/uploads/2015/02/First-Star-Third-Edition-A-Childs-Right-To-Counsel.pdf>>

⁷See Paxton, Dr. Maisly & Lauren Girard Adams. "Counseling Children and Youth in Times of Crisis: Understanding Child Development and Building Rapport." *ABA Child Law Practice* 39, June 2011, available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol30/june_2011/counseling_childrenand-youthintimesofcrisisunderstandingchilddeve/

⁸See Family Justice Initiative. *Implementing FJI System Attributes, Attribute 2: Interdisciplinary Practice Model*. <https://15ucklg5c-821brpl4dycpk15-wpengine.netdna-ssl.com/wp-content/uploads/sites/48/2020/03/fji-implementation-guide-attribute2-2.pdf>

⁹See e.g., Joseph J. Doyle, Jr. "Child Protection and Adult Crime: Using Investigator Assignment to Estimate Causal Effects of Foster Care." *Journal of Political Economy* 116, 2008, 4. <http://www.mit.edu/~jdoyle/doyle_jpe_aug08.pdf>; Lowenstein, Kate. *Shutting Down the Trauma to Prison Pipeline Early, Appropriate Care for Child-Welfare Involved Youth*, 2018. <https://static1.squarespace.com/static/58ea378e414fb5fae5ba06c7/t/5b47615e-6d2a733141a2_d965/1531404642856/FINAL+TraumaToPrisonReport.pdf>; The National Child Traumatic Stress Network, *Children' With Traumatic Separation: Introduction for Professionals*. <https://www.nctsn.org/sites/default/files/resources/children_with_traumatic_separation_professionals.pdf>; See also, Eck, Allison . "Psychological Damage Inflicted by Parent-Child Separation is Deep, Long-Lasting," *NOVA Next*, June 20, 2018; Coll, Cynthia García et al. "The Science of Childhood Trauma and Family Separation: A Discussion of Short – and Long-Term Effects," Youtube, June 28, 2018).

¹⁰See e.g., Substance Abuse and Mental Health Services Administration. *Recognizing and Treating Child Traumatic Stress*. <<https://www.samhsa.gov/child-trauma/recognizing-and-treating-child-traumatic-stress>>

¹¹See e.g., Child Welfare League of America. *Birth Parent Trauma and What Child Welfare Workers Need to Know* (webinar) <<https://vimeo.com/127943492>>

¹²See e.g., ABA Children's Litigation Committee, *Trauma Caused by Separations of Children from Parents: A Tool to Help Lawyers*, <<https://www.americanbar.org/groups/litigation/committees/childrens-rights/trauma-caused-by-separation-of-children-from-parents/>>; For more resources, visit the National Child Trauma Support Network: <https://www.nctsn.org/>

¹³See e.g., Gronkiewicz, Theresa M. "12 Tips to Help You Avoid Disciplinary Proceedings." *ABA for Law Students* (June 1, 2020), available at: <https://abaforlawstudents.com/2020/06/01/12-tips-to-help-you-avoid-disciplinary-proceedings/>

¹⁴See Miller, J. Jay et al. "Exploring the Legal Representation of Individuals in Foster Care: What Say Youth and Alumni?" *Children and Youth Services Review* 78, May 2017. <https://www.researchgate.net/publication/316863301_Exploring_the_legal_representation_of_individuals_in_foster_care_What_say_youth_and_alumni>

¹⁵See ABA Center on Children and the Law & National Council of Juvenile and Family Court Judges. *Judge's Action Alert: Supporting Remote Family Time During the Pandemic and Beyond: The Judge's Role*, 2021.

¹⁶Center for Family Representation. Cornerstone Institute. <<https://www.cfrny.org/our-training/cornerstone-institute/>>

¹⁷See Cohen, Jillian & Michele Cortese. "Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families," *ABA Child Law Practice* 28(3), May 2009. <https://www.americanbar.org/content/dam/aba/administrative/child_law/clp/artcollections/parentrep/cornerstone.pdf>

¹⁸See e.g., *In re Kristin H.*, 46 Cal. App. 4th 1635 (failure to submit favorable expert report constitutes ineffective assistance of counsel); see also, *In re Yarbrough Minors*, 314 Mich.App.111 (2019) (parents have a due process right to funds for consultation with a medical expert regarding alternative causes for their child's injuries).

¹⁹The [ABA Parent Attorney Listserv](#) and [NACC listserv](#) both offer opportunities to learn from and engage with practitioners from around the country.

²⁰The National Conference of State Legislatures provides an overview of state reinstatement of parental rights statutes at: <https://www.ncsl.org/research/human-services/reinstatement-of-parental-rights-state-statute-sum.aspx>.

²¹Visit the [ABA Center for Public Interest Law](#) to learn about public interest membership opportunities. Visit the [ABA Center on Children and the Law](#) to learn more about the Center's projects supporting access to justice for children and families, join professional [listservs](#), and learn about [training](#), [webinars](#), and other practitioner [resources](#).