



The Day In The Life of a Dependency Case Laced with Domestic Violence

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The Referral:

- A. Initial Assessment
- B. Family Safety Plan
- C. Failed Safety Plan

Detention/Temporary Physical Custody Hearing w/in 24 hours

- A. What information is presented to the court?
 - Prior History (criminal and dependency)
 - Efforts to keep the children in the home (safety plan)
 - The circumstances that lead to the detention of the child(ren)
- B. What findings must the court make in every case?
 - Jurisdiction
 - Probable cause
 - Reasonable Efforts (**Detailed and Specific**)
 - Services upfront
 - Ask about relatives
 - Find Fathers
 - Sibling contacts
 - Community contacts
 - Placement of children
 - Contrary to **welfare /best interest** of the child(ren).....
 - Visitation

Subsequent Hearings:

- A. Review Hearings?
- B. Dispositional Hearing
 - Reasonable Efforts Findings (**Detailed and Specific**)
 - Placement
 - Visitation
 - Conditions for Return
 - Permanency Plan
 - TPR Warnings (**must file if child has been in foster care for 15 of the most recent 22 months**)
- D. Permanency Plan Review Hearings
 - ***Must occur within 12 months of the date a child” is considered have entered foster care” or within 30 days of a judicial determination that reasonable efforts to reunify the child and family are not required. - ASFA***
 - Twice a year by a Judicial Officer/Volunteer Panel
 - Permanency Plan Reports
 - Reasonable Efforts
 - Concurrent Planning

ASFA and Reasonable Efforts:

- The state must make reasonable efforts to:
 - maintain the family unit and prevent the unnecessary removal of a child from his or her home, as long as the child's safety ;
 - **effect** the safe reunification of the child and family(if temporary out- of -home placement is necessary to ensure the immediate safety of the child); and
 - make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible. 45C.F.R Sec. 1356.21(b)

Reasonable Efforts

- A. Did the child protection agency gather and document information about the perpetrator from the perpetrator, past partners, court records, police reports, the victim's family, etc?
 - Assessing dangerousness;
 - Perpetrators strengths;
 - Perpetrators capacity for fatherhood.
 - Can the perpetrator change?
- B. Did the agency screen the family for domestic violence

Reasonable Efforts:

- C. Service Plans and Treatment
 - Are the service plans generally appropriate?
 - Does the perpetrator's plan consider how his behavior has or could impact the children's safety and his willingness to change?
 - Does the plan include BIP and Fatherhood classes?
 - Assessment for substance abuse or mental health issues?

Reasonable Efforts:

- C. Placement and visitation
 - Are there any criminal or family court orders prohibiting visitation or contact between the perpetrator and the child(ren)?
 - Will the children be safe if placed with or allowed unsupervised visit with the perpetrator or his family?
 - Can the perpetrator provide a sense of physical and emotional safety?
 - Must the children remain out of the victim's parent care to remain safe?

*“Reasonable Efforts Checklist for Dependency Cases Involving Domestic Violence” – **National Council Of Juvenile and Family Court Judges** -Family Violence Department*

The Challenges: How do you balance Victim Autonomy and Permanency/Well Being of the Children?

- Holding perpetrators of domestic violence accountable for their abusive behavior and not cause unintended consequences or further harm to the victims of domestic violence and their children.
 - Victim Autonomy
 - Reunification
 - Adoption and Safe Family Act (ASFA)
 - Hierarchy of Permanency Options Under ASFA:
 - Reunification/Return
 - Adoption
 - Legal Guardianship
 - Engaging Fathers

What Is Permanency

- Stability without disruption
- Safe and nurturing home environment and set of relationships
- Growing up with siblings
- Connections of Community of Origin
- Religion and Culture Preserves
- Gives child a sense of belonging and a definitive legal and social status
- Educational needs met
- *Healing of past trauma*
- *Physical/Emotional Needs met*
- Contact with family of origin if appropriate
- Opportunity to live in a permanent home, one which can be returned to for support even as an adult; home intended to last indefinitely

ABA Center on Children and the Law- “**Best Practices in POST-ASFA WORLD**” – Power Point by Margaret Burt, Esq.



Developing a Judicial Philosophy for Domestic Violence Cases

**The National Judicial Institute
on
Domestic Violence**

Why do we need a philosophy in domestic violence cases?

- **Domestic Violence Negatively Impacts Many of Society's Worst Problems**
 - Homicide
 - Suicide
 - Rape
 - Child Abuse
 - Juvenile Delinquency
 - Substance Abuse
 - Stalking
- **Domestic Violence in Large % of Courts' Caseloads**

Why do we need a philosophy for domestic violence cases?

- The relationships are intricate, complicated, conflicted, and inscrutable
- The goals of domestic violence victims differ from those of most other victims and from our own
- The offenders are practiced manipulators
- We all have a natural aversion to involving ourselves in the “private affairs” of others

Why were past judicial efforts to intervene in domestic violence cases largely ineffective?

- Victim-blaming
- Domestic violence was seen as only a justice system problem
- Neither we nor the community fully understood what we were dealing with
- We didn't think outside of the box and, therefore, limited our creativity

A Judicial Philosophy On Domestic Violence

- **Goals**

- 1. A Just Result
- 2. Safety for the Victim
- 3. Informed by the Victim
- 4. Offender Accountability
- 5. Elimination of Recidivism

A Judicial Philosophy (Cont.)

- **Primary Objectives**
 - 1. Prevent Additional Harm
 - 2. Obtain Control
 - 3. Punish Past Acts BUT Emphasize Prevention of Future Violence
 - 4. Preserve Relationships (if desired)
 - 5. Vindicate the Rule of Law

A Judicial Philosophy (Cont.)

- **Tools Available**

- 1. Self-Education
- 2. Consistent Application
- 3. A Coordinated Community Response
- 4. *Jail*

Thank you...

**Good luck with the D.V.
And Dependency Challenge!**

Resources:

- National Council of Juvenile and Family Court Judges (NCJFCJ)
- Futures Without Violence (Formally Family Violence Prevention Fund)
- “Reasonable Efforts Checklist for Dependency Cases Involving Domestic Violence” - NCJFCJ Publication – Family Violence Department
- “RESOURCE GUIDELINES – Improving Court Practice in Child Abuse & Neglect Cases” – NCJFCJ Publication
- “Child Safety – A guide for Judges and Attorneys” – America Bar Association
- “A Judicial Guide to Child Safety in Custody Cases” - NCJFCJ Publication
- “Fathering After Violence – Working with Abusive Fathers in Supervised Visitation” – Family Violence Prevention Fund Publication