

Courtroom Decisions

The Child Welfare Contribution of Proximity and Balance

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Throughout our state, an important drama occurs in our courtrooms where life-changing decisions are rendered in child welfare cases. The blessing of this drama is that when success is found, a family's trajectory can actually be turned, finding a new orbit—a much-improved orbit—for the health and welfare of all family members. The curse of this drama is that we can hurt deeply, even when

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trying to help (iatrogenic harm) and this hurt can continue to haunt well beyond the time that forgotten court documents expire and yellow with age.

Those who occupy important roles in these decisions, judges, attorneys, child advocates and families themselves, would do well to consider what the child welfare (CW) professional brings to the judicial process; proximity and balance. Proximity speaks to the closeness achieved from direct practice between the CW staff and the family. Balance is gained from social work's defining appreciation of the “person-in-environment”—going beyond the person as individual and moving to a more balanced view that seeks to understand both the person *and* the world they live in.

Proximity via direct practice becomes a tremendous benefit. Courtroom decisions need both accurate and timely reporting and we look to child welfare professionals to intimately know a family for the bulk of this coverage. Proximity also allows the development of a therapeutic relationship to facilitate the various remedial efforts ordered as treatment plans.

One would be wise not to overlook the benefit of proximity to the helping process. The claim to the benefit and value of the professional-family relationship does not come from the

presumptive notion that “it must be good because that's what we do.” Beyond practice wisdom or anecdotal field experience the value of a close helping relationship has been upheld by one of the largest meta-analysis of helping interventions ever conducted—one that reviewed forty years of therapy outcome studies. This study found that the development and maintenance of the “therapeutic alliance” was one of the most significant influences to positive treatment outcomes. The informed practitioner understands the helping relationship not as something “good” or “nice” but rather as a *critical component to change*. Michigan's system of family care should celebrate this proximity inherent within direct practice—for any remediation and betterment with troubled families will surely depend on it.

To aid the reporting process, accuracy alone is not enough—reports must also be *balanced*. Family strengths and successes must be allowed to coexist with failures and flaws. Many perspectives are sought in the courtroom process yet one needs to consider what the differing professions bring to the table. Attorneys and the legal profession bring important skills, but they are not trained to offer a balanced perspective. Martin Seligman reports, “Pessimism is seen as a plus among lawyers, because seeing troubles as pervasive and permanent is a component of what the law profession deems prudence. A prudent perspective enables a good lawyer to see every conceivable snare and catastrophe that might occur in any transaction.” Unfortunately, a trait that makes a good lawyer, does not always translate into allowing a balanced view of a family. Only by giving equal emphasis to child welfare's balanced reporting of both problems and strengths—of failures and successes—will an evenhanded perspective prevail to enable courtroom decisions.

It is our larger helping culture, not just our legal system, which is primarily focused on dysfunction and pathology. “Of course” cries the person upon first view, “problems are what we are attending to and trying to resolve!” The quick response is “yes, of course” but the contemplative answer is that the process of resolution will not come about solely from considering the failed side. The Strengths-Perspective calls those within

the court process to allow a balanced view of success and failure, mindful of both needs and wants and considering both deficits and strengths. A strengths-perspective can avoid courtroom decisions that could best be described as false-positives or false-negatives. A false-positive found by errantly assigning costly treatment resources when a family would not stand a chance of benefiting. Or, a false-negative that occurs by breaking up families that might otherwise have been able to stay together with supportive help. Only through a balanced view of deficits and strengths will we be able to extend the greatest aid—with the least interference—to families.

For those familiar with child welfare dockets, it is easy to spot the exclusive focus on the family's failures and flaws. Once jurisdiction has been established and the court process moves to treatment planning, this penchant towards a negative bias can incur a troubling scenario. The CW staff, in attempting to bring a balanced view can often have their viewpoints summarily dismissed.

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Their challenge to bring an equal voice to both the strengths and deficits of a family can be disregarded by the belief the CW professional, by merely offering this balanced perspective, has become “too close” to the family. They are thought to have “lost their perspective” due to this closeness. Content is now confound.

All in one disapproving criticism, the advantage of proximity is reframed as a negative and the balance—so necessary to render best decisions—is jettisoned.

Consider an adage from the Strengths perspective, “Pain and problems may get the ball rolling, but that's not the same as saying it will finish the job. What will finish the job are a person's strengths, passions, resources and positive attributes.” The child welfare professional, considering the person and their environment—in a close helping relationship illuminated by the Strengths perspective, offers the necessary tools for *finishing the job*. ●