

As the Pendulum Swings: Child Welfare Roles and Specialization Over the Years

My pediatrician father always talked about the swinging pendulum. After 40 years I see some interesting twists in our child welfare system. In 1976, we, the lawyers, had no particular expertise in child welfare. The CPS workers were the experts. Most in my jurisdiction had MSW degrees, life experience, children, and common sense. They were actual social workers. The lawyers were mostly young, passing through, and just trying to get some case and trial experience. We didn't stay in the field long enough to know the medium- and long-term consequences of our interventions. We saw a bad situation, advocated the removal of the child to a safe foster home, and felt we had done a good thing. We thought we were heroes.

As some of us stayed in the field longer, we saw the ramifications of our interventions. We saw kids cut off from everything and everyone that mattered. We saw parents frustrated, removed from ongoing involvement in their children's lives, and for some, resolved to just giving up and moving on to have other children, who may then be removed and placed in the system. We saw older kids placed in group homes, where their acts of frustration and rage, such as breaking things, were reported to the police, and they entered the juvenile justice system. We saw kids aging out of foster care with few, if any, resources of any kind. Most returned to the families from whom they

had been removed, many became homeless, and many went to jail. Our smug satisfaction at being do-gooders wasn't so satisfying anymore.

Over the past 40 years a lot has changed. Federal laws and funding, trauma-informed best practices, seemingly endless budget cuts, poverty-related neglect and abuse, rampant substance abuse, dismantling of mental health services... I could go on with all the challenges, good and bad.

I remember sitting at an NACC board meeting discussing whether we could create a specialization in child welfare law. We could build it, but would anybody come? I am a certified specialist in family law, which gives me some credibility and ability to charge more for my services, obtained mostly by paying clients. But child welfare lawyers were only rarely privately retained. We either worked as agency attorneys, in public defenders offices, had court contracts, or were expected to practice our "specialty" entirely or functionally pro bono. HHS gave us a grant, and we created a specialty, endorsed by the ABA, hoping that someone would apply. I was hired to write "the Red Book", which was ultimately a much better conceived multi-author work, and create a training curriculum. The NACC hoped that people beyond the 3 pilot states would pay to get a certification, which didn't necessarily have any ability to help us attract clients who would pay for our expertise.



by **Ann Haralambie, JD, CWLS**

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To my surprise, pride, and joy, people did come, and state AOCs were willing to put some money behind the program to facilitate attorneys becoming certified child welfare law specialists. I now have had clients hire me because I had the CWLS credential. Juvenile judges have come to see the benefits of having trained, experienced child welfare lawyers, who can help make the system more responsive and achieve better outcomes in individual cases. Don Duquette's QIC program has shown that we can make a positive difference when we know what we're doing. Professor Jean Koh Peters has challenged us with an aspirational model that should make →

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us all think very hard about what we are doing. The ABA Standards and Model Act have shown us that we need to be real lawyers, who do what all lawyers do and then some. The “Red Book” has gotten bigger and better in each of its three editions. We have turned attention on those whom Professor Marty Guggenheim has called “legal orphans” and have given greater focus to youth involvement and empowerment in reforming our state child welfare systems.

But I started out by talking about my father’s swinging pendulum, and I return to my own pendulum. I am distressed to see that in the 40 years of my experience, the reverse has occurred with CPS workers, now mostly caseworkers, not social workers. Many are in their 20s, as I was as a young lawyer, have no children, no relevant life experience, not enough education and training in the field. As I lacked wisdom in the 1970s, many of these caseworkers lack wisdom now. And wisdom is what is most assuredly needed, especially as caseloads have exploded and resources have shrunk. It is no wonder that people who did not pursue a specific education because their heart was in child welfare don’t stay long in a job that doesn’t pay well and makes unreasonable time, emotional, and financial demands on them.

When I started out, the CPS workers were the experts, and the lawyers were only transient participants in the child welfare field. Now it is the CPS workers who often are the transient participants and the lawyers who are the experts who obtained the training because their hearts were in it. So it is up to us—the lawyers who represent the children, the parents, and the agencies, and the CWLS judges—to use our expertise in individual cases and systemically to improve the outcomes for

children and families. We have state and federal laws that can help us. We have trauma-informed best practices and evidence-based services. We know more about what works and what doesn’t. We know more about the damage done to children from improvident removals.

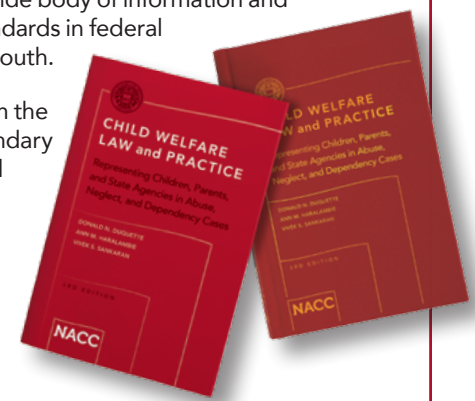
It has been said that budgets are moral documents. In this election season, we need to use our expertise and our voices to bring to our state legislative candidates the seldom discussed issue of our child

welfare system, including the need for adequate funding, for home-based resources, for well-trained and well-paid CPS workers who have reasonable caseloads and available resources. How about creating a scorecard to see where our candidates stand on these issues? “Family values” are always a topic in an election year. Let’s use 2016 to focus not only on the national election, but also on what our state and local officials can and should do for the families and children we serve. ■

CHILD WELFARE LAW and PRACTICE: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases 3RD EDITION

Child welfare law is complex and ever-changing. The practice of representing children, parents, and agencies in dependency cases requires extensive knowledge and skill in both legal and non-legal subjects. This third edition of *Child Welfare Law and Practice* (“The Red Book”) captures the wide body of information and expertise that define child welfare law as a specialized field, from legal standards in federal law to techniques for interviewing children to innovations in serving older youth.

The 35 chapters in this edition include extensive updates and revisions from the second edition, including new chapters on issues such as coping with secondary trauma and engaging in systemic advocacy for policy change. The National Association of Counsel for Children (NACC) has certified dependency attorneys and judges as Child Welfare Law Specialists (CWLS) since 2006. This treatise serves readers as a practice reference, a training manual, and a study guide for the CWLS certification exam.



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