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Legal Community Must Promote Dependency-Court Reform

Forum Column

By Miriam Aroni Krinsky

Some juvenile-court judges feel like the Rodney Dangerfields of the legal profession: They just don't get the respect they deserve.

Indeed, one juvenile-court judge recently remarked, "Of great frustration is the lingering attitude of fellow judicial officers ... that juvenile matters are not as important as adult proceedings. Getting the help and resources to do a competent job is very difficult to achieve."

As a community, we designate these court officials to act on our behalf in providing security, safety and permanence for our most vulnerable children. Our state Standards of Judicial Administration recognize the "unique role of a juvenile court judge." These judges are expected to employ a level of activism impossible to imagine in other judicial settings, not only by responding to the facts as presented but also by proactively ordering services and resources that will have a lifelong effect on the children and families who come before them.

Dependency-court hearing officers serve as gatekeepers, in deciding whether abused and neglected children will come under the protection of the foster-care system, and as the critical monitors of that system. As Bill Frenzel, former congressman and current chair of the Pew Commission on Foster Care, recently observed, "No child enters or leaves foster care without a judge's decision." These judges are charged with determining whether and when a parent's rights should be terminated and ensuring that children are timely placed in safe and stable homes. Yet the public is largely unaware of the depth of their responsibilities.

Similarly, dedicated and passionate lawyers battle against many systemic hurdles to serve as the "voice" in the dependency system on behalf of children who otherwise might have little input regarding their futures. Yet our commitment to these lawyers and the dependency-court process is woefully inadequate. Only 1 percent of federal child-welfare dollars are earmarked for the dependency-court system, a figure reinforcing the conclusion that, federally and state by state, we don't do nearly enough to strengthen and value this essential part of the process.

And children and families end up paying the price for this inattention.

No one disputes that our court system faces significant hurdles. A groundbreaking 2004 national survey of 2,000 judges who hear child-abuse and neglect cases found that barely half of dependency judges received any child-welfare training before hearing dependency cases. The survey also revealed that overloaded court dockets, a chronic shortage of available services for families, and poorly prepared caseworkers present major barriers to finding stable and secure homes for children in foster care.

We can and must change these realities.

We need to provide adequate resources to ensure the recruitment and retention of the highest-caliber bench officers and attorneys in this vitally important arena. Given the complex nature of the many issues children and families face, training must be provided in relation to not only relevant dependency law but also child development, cultural competency, health, mental health and education issues.

Courts must be armed with outcome-focused data tracking that would enable bench officers to manage cases and follow the progress of children through the system. Communication networks that enable stakeholders and data systems to "talk" to one another need to be developed. Without tracking and meaningful data, we will never have an acceptable standard of accountability or meaningful improvement of outcomes for children.

The goal of forging a better future for the children we undertake to raise also requires the

establishment of reasonable caseloads for dependency attorneys. Moreover, if we wish to attract the best and the brightest to what many believe is the most significant work done in our legal and judicial system, attorneys who choose this professional discipline must receive adequate compensation. Serving as legal counsel for abused and neglected children is without a doubt rewarding and fulfilling, but it also is emotionally, intellectually and physically draining and can become completely overwhelming.

Creating and funding appropriate standards for compensation, including salaried positions rather than inherently problematic ad hoc payments per case, and mechanisms including loan forgiveness benefiting both new and current attorneys should be pursued. Cost-saving measures that result in poorly compensated counsel and excessive caseloads likely will result in greater expense over time because of poorer quality of representation, decreased efficiency, high turnover and poorer outcomes for children.

If we are to safeguard the best interests of abused and neglected children, they need a direct and adequate voice in court. In California, dependent children are provided court-appointed legal representation. Elsewhere, the child-welfare agency, the nonoffending parent and the abuser all have a legal voice in court, while the child has either no voice or a nonlegal "guardian." Children deserve to stand on equal legal footing in the court process.

We also must assure that youths themselves participate in the very proceedings that will craft their future. Even the most skilled judges and attorneys with the best intentions should not make life-changing decisions about a child they have never met or a family they know only as a case number. Youths need to be present at dependency-court proceedings, and they need to be granted the dignity and respect of expressing their own views about decisions that will alter their lives in the most significant and lasting ways imaginable.

Nationwide, there are many reasons to be hopeful that change is on the horizon. Recently, people have called for assessing these problems and supporting the way juvenile courts and counsel can and should operate. In particular, the Pew Commission introduced comprehensive recommendations to overhaul America's foster-care system, focusing on court reform.

Pew Commission members proposed incentives and requirements for effective collaboration between courts and child-welfare agencies, a strong voice for children and parents in court, and effective trained representation in court proceedings. The report urged adoption of performance measures by dependency courts to ensure tracking of caseloads, increased accountability and informed decision making.

Pew commissioners also emphasized the importance of leadership from chief justices and other state court leaders in developing court systems to improve service to children, provide training for judges and promote more effective standards for dependency courts, judges and attorneys. Encouragingly, the state Judicial Council, led by Chief Justice Ronald M. George, recently approved a resolution pledging that the state judicial branch "will work with state and local entities and community partners to realize the Commission goals, and urge Congress to act on the recommendations."

All of us in the legal community need to join to promote dependency-court reform. We must make a firm commitment to a juvenile-court system staffed by respected and well-trained professionals who have sufficient resources, adequate information and enhanced accountability to move abused and neglected children swiftly out of foster care and into the safe and permanent homes they deserve.

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