

# Judicial Oversight of Parental Visitation in Family Reunification Cases

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## A B S T R A C T

This article explores the issue of visitation between a child and parents in the context of child protection proceedings, addressing the following areas: 1) the importance of visitation in the context of family reunification; 2) the results of an informal study of visitation practices in several jurisdictions; 3) the law relating to visitation in child protection proceedings; 4) some best practices that have been identified by commentators; 5) the role of the judge regarding visitation issues; and 6) some recommendations for judges and court systems regarding visitation. The article concludes that visitation between a child and her parents often occurs too infrequently; as a result, the relationship between the child and parents can be damaged, the child can suffer further trauma, and the chances for successful family reunification may be reduced. Finally, judges and social service agencies can and must improve both the quality and quantity of parent-child visitation.

consider when the social service agency recommends visitation between the child and her parents? Should the court address such issues as frequency, location, supervision, and contact with relatives, including siblings? What should the judge order?

## I. Introduction

When a child is removed from her parents, it is because a parent has abused or neglected her and a court has found that it would be unsafe to leave her in her parents' care. In this context we can assume at least two kinds of trauma: first, whatever abuse or neglect brought the child to the attention of the state and, second, the removal of a child from familiar surroundings to an unfamiliar placement.

The majority of children who are reported as abused or neglected do not come before the juvenile court.<sup>1</sup> The most serious cases, however, result in legal proceedings in which the state files a petition on behalf of the child, the court determines the truth of the allegations of abuse or neglect, and a plan is established and implemented for reunifying the family. Both federal and state laws govern these legal proceedings<sup>2</sup> and have established three important policies: 1) child safety; 2)

A case is filed in the juvenile court, alleging that a child has been abused by her father and neglected by her mother. At the trial, the judge finds that these allegations are true, declares the child a dependent of the court, removes her from her parents' care, places her in foster care, and offers the parents family reunification services.

One of these services is visitation between the child and her parents.

Thus begins a child protection case in the juvenile dependency court. The purpose of these legal proceedings is to protect the child from abuse and neglect, but also to return the child to her parents as soon as that can be done safely. If reunification is not completed in a year, a permanent placement must be found for the child, preferably in an adoptive home.

In situations such as these, how important is visitation between the child and her parents during the reunification process? Does visitation have any effect on the best interests of the child? Does visitation have any impact on the chances the parents will reunify with her? Should parental visitation be of any concern to the juvenile court judge? What should the juvenile court judge

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family preservation; and 3) timely permanency for the child. Additionally, federal and state laws dictate a time line for each hearing in a child protection proceeding, a time line that stresses the importance of reaching permanency within a year or less.<sup>3</sup>

The social service agency (the Agency) has the legal responsibility for carrying out these laws. At the beginning of the case, the Agency must decide whether services can be provided to keep the child safe in her home or, if the child is in danger, whether it should ask the court to authorize her removal from parental care. After removal, the Agency must provide services to reunite her safely with her parents. When the allegations of abuse or neglect are found to be true and the court removes a child from parental care, the Agency must also establish a service plan to address the problems that brought the child to the attention of the state. The plan will focus on modifying parental behaviors as well as meeting the child's needs. The court will usually review this plan, may amend it, and then make it a part of the court's dispositional orders.

Parent and child visitation is a critical part of any service plan. As important as visitation is to both parent and child, it also presents some of the most difficult challenges inherent in child protection proceedings. After removal, the child and parents live separately and maintaining contact may be difficult. First, it may be unsafe for the parent to see the child unless the contact is supervised, and second, the logistics of the contact may be burdensome to the parents, to the caretakers, and to those who must supervise the contacts. Many child welfare systems around the United States are unable to arrange for timely or frequent contact between a child and her parents even when all parties agree that it is the correct thing to do.<sup>4</sup>

This article addresses visitation when the child is not placed with relatives or kin. Placement in stranger/foster care presents the most extreme break in the child's developmental trajectory and may result in the greatest trauma. Placement with relatives is preferable to stranger/foster care placement for several reasons. First, placement with a relative means that the extended family is able to maintain care and control of the child. This can have enormous psychological benefits for all family members, including the child. Second, the child is usually familiar with family members and

thus can maintain the continuity of family ties. Third, visitation in a more informal setting and on a more frequent basis may be more easily achieved in relative care since the family members know each other. Fourth, placement with relatives is favored by the law.<sup>5</sup>

## II. The Importance of Visitation

In many child welfare cases, the removal of a child from parental custody marks the first time the child has ever been out of the care of one or both parents. Whatever the reason for the removal, it is a traumatic event for the child and the parents. A child who is placed in foster care fears the unknown and may feel abandoned, helpless, and hopeless. She may worry about her family, imagining that her parents have died or are looking for and cannot find her. She may feel guilty for whatever has happened to her parents.<sup>6</sup>

The trauma of separation is potentially overwhelming to children.<sup>7</sup> They may become despondent and depressed. They are often angry. The trauma can be increased when they are separated from both their parents and their siblings.<sup>8</sup> These observations are true even in many cases of serious abuse and cases in which the child expresses fear of a parent or a reluctance to visit. In these situations the child will often express a wish to return home after a short period in out-of-home placement.

The parents also can be traumatized. They may worry about where their child is, who is taking care of her, whether her special needs (medicines, diet, clothing—all the things parents worry about) are being addressed and by whom. They may also feel both jealousy and fear regarding the new placement. They may be jealous because another family has taken over their parenting duties, and they may fear that the child will prefer the new surroundings and the new family to their own. They may also be overwhelmed with guilt and shame for what has taken place.

Separation in these circumstances can affect the connections<sup>9</sup> that a child has formed with her parents, siblings, and family members. Depending on the age of the child, the separation can damage relationships and have long-term implications for a child's ability to form new attachments and relationships.<sup>10</sup> Connectedness is necessary for healthy child development.<sup>11</sup> "One of the things that we know is that for a child to develop nor-

mally, he or she must have a continuing stable human relationship, that this child must be attached to at least one nurturing adult—somebody that he or she can count on for life, even when the child becomes an adult.”<sup>12</sup> This connectedness must be protected and should be severed only in extreme circumstances and with extraordinary care.

Child development principles inform us that reciprocal connectedness begins with the earliest caregiver-child interactions in infancy.<sup>13</sup> As a caregiver responds to a child’s distress with cooing noises, rocking, and feeding, the child develops a reciprocal connection with that caregiver. This is reflected in the eye-to-eye contact and responsiveness of facial expressions in infant and adult (peek-a-boo is a playful testing of this mutual responsiveness). This fundamental connectedness makes the world seem predictable and safe. Without this connectedness, the child will not develop normally. Infants who do not form at least some minimal connectedness can become despondent, fail to thrive, or even die.<sup>14</sup>

These early connections allow a child to feel safe, learn cause and effect, develop judgment, and develop morally.<sup>15</sup> Connectedness is necessary for the healthy cognitive, emotional, and behavioral development of children. “When a child is put in foster care, it’s very possible that we are going to disrupt this fundamental attachment and in consequence then, that we may disrupt this child’s fundamental need-to-be-near that person who makes the world seem safe. Putting a child in foster care can be damaging, in and of itself because of its disrupting the basic developmental process.”<sup>16</sup> This may result in a child’s lack of ability to feel empathy for herself and others. This empathy for others is the basis of moral development. The effects of breaking this connectedness manifest in several ways and may have long-term repercussions caused by developmental delays affecting a child’s moral, cognitive, emotional, and behavioral development.<sup>17</sup>

The child’s emotional development can also be retarded and may even regress under the stress of removal from her family. The overwhelming emotional distress caused by the family’s breakup can overwhelm a child’s coping strategies leading to maladaptive behaviors and ruminations of self-hatred and self-destructiveness. Since children’s coping strategies have a more narrow range than those of adults, removal can lead to

behaviors that in older children can manifest as acting out anti-socially or self-destructively.<sup>18</sup>

Behavioral development may also suffer as a result of removing a child from her parents. Children who experience such a loss go through the same stages of grief<sup>19</sup>—denial, bargaining, anger, depression, and resolution—as if someone had died. “We don’t recognize grief in children . . . Children grieve differently and they grieve longer . . .”<sup>20</sup> Children of all ages suffer the effects of traumatic separation.<sup>21</sup> Even adolescents are affected, though they often deny it. Nevertheless, it is often manifested by their behavior, their affect, and their strained interpersonal relations with others, including surrogate authority.

These child development principles are known to the juvenile court<sup>22</sup> and members of the child protection system. Unfortunately, some children have to be removed from their parents’ care for their safety. In these situations, it is crucial to their development to find ways to minimize the trauma and grief caused by the severing of connections caused by the forced separation. This can be accomplished by protecting those connections whenever possible and by providing support for reconnection to other adults when necessary. One of the best ways to minimize the effects of traumatic separation is to provide for frequent, regular contact between these children and their families.<sup>23</sup>

The best interests of children are clearly enhanced by regular visitation. “Attachment theory suggests that if attachment is maintained through visiting, separation distress will decrease, developmental progress will accelerate, and well-being will increase.”<sup>24</sup> Studies demonstrate that children who have regular visitation with their parents make better adjustments to care, are more likely to be reunified,<sup>25</sup> and, when reunification is not possible, are more likely to be adopted by their foster parents.<sup>26</sup>

The amount of visitation that will best serve the interests of the child varies according to the circumstances. Younger children need more frequent, but perhaps less lengthy, periods of contact.<sup>27</sup> Older children may need less frequent visitation to maintain their sense of connectedness to their parents.<sup>28</sup> For a guide to children’s developmental needs, depending on age, refer to Appendix A.<sup>29</sup>

Parents are also well served by regular visitation.

## Judicial Oversight of Parental Visitation

Studies show that reunification is more likely when parents visit regularly.<sup>30</sup> This makes sense since visitation maintains parents' interest in their child and motivates them to continue reunification efforts.<sup>31</sup>

For parent-child visits to be beneficial, they should be frequent and long enough to enhance the parent-child relationship and to effectively document the parent's ongoing interest and involvement with the child.<sup>32</sup>

### III. The Informal Survey

The Juvenile Dependency Court of the Santa Clara County (Calif.) Superior Court, over which this author presides, has been designated a Model Court for more than six years. Model Courts<sup>33</sup> are selected by the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges (NCJFCJ) and must commit to work to institute best practices in child abuse and neglect cases and implement the recommendations of the NCJFCJ's Resource Guidelines.<sup>34</sup> At this writing, there are 25 Model Courts in the country.<sup>35</sup> Over the past eight years, these courts have been assisted by the Permanency Planning for Children Department, have met regularly, exchanged ideas, and improved their court and agency operations in numerous ways.<sup>36</sup>

At a meeting in January 2003, Model Court lead judges were surveyed regarding visitation practices. They filled out a brief questionnaire (see Appendix B) and then discussed the issue of visitation during reunification.<sup>37</sup> They were asked what they believed should be the visitation schedule for a child in family reunification when the child is placed in foster care (not relative care). Twenty judges responded to the questionnaire, but all did not answer every question and for some questions gave more than one response. The results are summarized as follows:

1. The standard visitation order in these cases was: one visit per week (9); two visits per month (4); two visits per week (3); and one visit per month (2).
2. The number of hours per visit was: two hours a week (5); one hour a week (3); two hours every other week (3); one to two hours a week (2); one hour every other week (2); one hour a month (2); two to four hours a week (1); and four hours a week (1).
3. Visits take place: at the agency office (17); at the placement (7); at a supervised visitation center (6); at a safe, open, public place [McDonalds, etc.] (6); at the parent's home (3); at a children's shelter (2); at parenting classes (2); at doctor appointments (2); and in court (1).
4. Visits are: usually supervised (18); and it depends (3).
5. The visits are supervised by: a social worker/CASA aide (20); a relative (6); a foster parent (5); a visitation center supervisor (3); approved friend (1); and by a teacher at a parenting class (1).
6. The ideal frequency of visits would be: it depends on the age—the younger the child, the more often the visits (5); two to three times a week (3); four to five times a week (2); three times a week minimum (2); one time a week minimum, (2); two times a week minimum (2); daily or every other day (1); three times a week (1); one to two times a week (1); and as often as possible without causing disruption (1).
7. The ideal location for the visits is: where the child lives (10); at a visitation center (7); a homelike/neutral setting (3); a family friendly setting (2); and anywhere—comfortable for all involved (1).
8. The perceived obstacles to more frequent visitation are: resources (7); lack of home-like visitation centers (4); lack of supervisors (3); housing for homeless parents (2); transportation (2); logistics (1); lack of staff support (1); inappropriate environment (1); safety (1); children live at a great distance (1); older children have other activities (1); and workers do not want to facilitate visits (1).
9. Visits are not taking place as often as they should because of: lack of resources (10); not enough supervisors (10); schedule conflicts (3); transportation/distance (2); lack of understanding of the importance of visits (1); disruption of child's routine (1); older kids don't want to visit (1); and tensions (1).<sup>38</sup>

During the general discussion among Model Court lead judges it was clear that few of them were satisfied with the quantity of visitation offered children and their families during family reunification. Some seemed at a loss about how to address the problem. "The department doesn't have the resources to provide more frequent visitation" was the most frequently stated response.<sup>39</sup> On a more positive note, a small number of judges reported that visitation in their jurisdictions

depended on the facts of the case and that the court was able to provide frequent, supervised visits for parents and their children in settings that were conducive to positive interactions.

To broaden the enquiry somewhat further, the author contacted juvenile court judges in six additional counties in California (Alameda, Orange, Riverside, San Diego, San Francisco, and San Mateo)<sup>40</sup> and asked the same questions. The responses were similar.

#### IV. The Law

The Adoption Assistance and Child Welfare Act of 1980 (the Act), the Adoption and Safe Families Act of 1997 (ASFA),<sup>41</sup> and the state laws subsequently implemented govern child protection proceedings. Federal law dictates that after the state has removed a child from her parents, it is required to provide services to that parent in an effort to reunite the family safely within strict time limits. The state agency that carries out this responsibility is the Department of Social Services (sometimes called the Department of Children's Services or Family and Children's Services and in this article, the Agency). The Agency receives federal monies for each child removed, monies which by statute must be dedicated to support the child in her out-of-home placement and to provide services to the parents and child in order to facilitate family reunification.<sup>42</sup>

In both the Act and ASFA, the federal law has placed oversight responsibility for the actions of the Agency with the state juvenile and family courts.<sup>43</sup> These courts are required to review the removal of each child to see whether such removal was necessary<sup>44</sup> and to review the progress of the parents throughout the life of the case until the child is either returned home or a permanent placement is found.<sup>45</sup> According to the law, if a child cannot be returned home, the preferred permanent placement is adoption, followed by legal guardianship. Long-term care in a foster home or group home is not a preferred option.

Court oversight includes conducting hearings from the case's beginning to end, making findings, and, in the most serious cases, terminating parental rights so that children can be freed for adoption.<sup>46</sup> One of the findings that a court must make throughout the life of a child's case is whether the Agency has made "reasonable efforts" to fulfill its statutory duties. The reasonable

efforts finding applies to many situations including: 1) services provided to prevent removal of a child from parental care; 2) services provided to reunite a child with parents; and 3) services provided and actions taken to find a permanent placement for a child. A finding of reasonable efforts indicates that the judge finds that the Agency is doing its job correctly. A finding of "no reasonable efforts" means that the judge finds that the Agency has not done what it was required to do. It also means that the Agency may not receive federal monies as reimbursement for state expenditures to maintain the child in foster care.<sup>47</sup>

Family reunification is of critical importance to the child protection system. Except in a few severe cases,<sup>48</sup> the juvenile court must order a service plan designed to facilitate reunification between parent and child.<sup>49</sup> The plan must be appropriate to the circumstances of the particular case with the overall goal of resumption of a family relationship.<sup>50</sup>

The law is clear as to the fundamental importance of visitation in child protection proceedings and in the reunification process. "Visitation rights arise from the very 'fact of parenthood' and the constitutionally protected right 'to marry, establish a home and bring up children.'"<sup>51</sup> When the state removes a child from her parents, it has an obligation to make reasonable efforts to reunify the family. In this context, visitation is an essential component of any reunification plan.<sup>52</sup> Visitation must be as frequent as possible, consistent with the well-being of the child.<sup>53</sup>

These legal principles hold true even in complex situations where the child expresses an unwillingness to visit with the parent<sup>54</sup> or where the parent is incarcerated.<sup>55</sup> Moreover, the legal decisions regarding visitation are judicial. They may not be delegated to the social worker,<sup>56</sup> the therapist,<sup>57</sup> or the child.<sup>58</sup> In its monitoring role, the court must ensure that the Agency has made reasonable efforts to provide suitable services "in spite of the difficulties of doing so or the prospects of success."<sup>59</sup>

There is no legal standard of visitation addressing the frequency and duration of visits for parents whose child has been removed from their care by state action. The law simply states that the state must provide services designed to safely reunify a child with her parents. A few federal cases have addressed the issue of what

## Judicial Oversight of Parental Visitation

level of visitation must be provided by the state in order to meet its obligation under federal law. No federal court has established a visitation standard in a published case. For example, in *Scrivner v. Andrews*,<sup>60</sup> a mother and child filed a federal action under 42 U.S.C. section 1983 claiming they were not receiving meaningful visitation (eight-month-old child visiting with mother once every other week). The Federal Circuit Court of Appeals affirmed a trial court dismissal of their action, stating that the Act does not create a right to meaningful visitation enforceable under section 1983. Citing *State of Vermont Department of Social and Rehabilitation Services v. United States Department of Health and Human Services*, the court noted that if a state complies with the minimum requirements of the Act, it may “unilaterally develop administrative procedures compatible with its own unique foster care circumstances.”<sup>61</sup>

The frequency and location of visitation was the subject of a federal lawsuit in Cook County, Illinois. The petitioning parents argued that once-a-month visitation at the DFCS office building was both too infrequent and in an improper setting. The case settled in 1986 with an agreement that such visitation would take place “in the parent’s home unless inconsistent with the child’s safety and well-being, as documented in the writing in the service plan.”<sup>62</sup> Apparently, the “Agreed Order” has not resulted in substantial increases in visitation.<sup>63</sup>

What standards and procedures have state social service agencies developed? A survey indicated that about half of the states specify a minimum of biweekly visits as the standard; the remaining states have no standard regarding the frequency of visits.<sup>64</sup> California, for example, has written a Manual of Policies and Procedures<sup>65</sup> in which visitation is addressed. According to the California Service Delivery Requirements:

The social worker shall arrange visits between the child and the parent(s)/guardian(s) named in the case plan no less frequently than once each calendar month for children receiving Family Reunification Services, unless the court, for Dependent Children, or the county deputy director, for voluntary cases, approves less frequent visitation up to a minimum of once every six months.<sup>66</sup>

In California, it is clear that the law does not mandate frequent visitation during the family reunification period, as it specifies visits between the child and her parents only once a month. The informal survey conducted by the author included a number of California counties. None of these utilized the state agency’s guidelines for visitation. It is clear in practice that this level of mandated visitation falls far short of what judges and social workers believe is necessary in order to provide parents a reasonable opportunity to reunify and short of the visitation necessary to comply with the developmental principles outlined in Section II above.

Maine’s Department of Human Services has designed guidelines (the Manual) for social workers regarding parent-child visitation.<sup>67</sup> The section on visitation starts with a statement of philosophy, which declares that visitation must be focused on “child safety, permanency, and well-being.”<sup>68</sup> The Manual recites the importance of visitation:

Frequent and meaningful visits between children and their families can be a vital component of family rehabilitation and reunification, can provide important connections between a child in care and their [sic] sibling(s) or other family members, and provide an important opportunity to observe a parent’s progress towards goals outlined in a Child and Family Plan.<sup>69</sup>

The Manual emphasizes the importance of an individualized assessment for each case and a visitation plan for each child. This assessment and plan are presented to the court as recommendations to consider when making visitation decisions. Additionally, the Manual outlines the many purposes that visitation serves including the following regarding parents:

- To maintain, establish and promote a mutually beneficial parent-child relationship.
- To help a child manage any impact of being separated from his family and familiar environment.
- To provide an opportunity for ongoing assessment of a parent’s capacity to care for and protect his or her child and the parent’s willingness and capacity to change the behaviors that caused the child to come into care.

- To provide an opportunity for parents to learn parenting skills, practice those skills, and receive feedback on their progress, as consistent with the Family Plan.<sup>70</sup>

The Manual describes the visitation assessment process and the many factors the social worker should consider including court orders, the nature of the abuse, the role of the parent in the abuse, the child's emotional needs, the parent's protective capacities, the child's attitude towards the visits, the opinions of any therapists seeing family members, and more.<sup>71</sup> Thereafter, the Manual describes specific types of abuse (sexual, domestic violence, emotional) and what types of factors the social worker should consider in each type of case.

The Manual states that the frequency of visitation should be based on the child's age and sense of time and "not on adult schedules or convenience,"<sup>72</sup> and that shorter and more frequent visits may be in the child's best interest to maintain family connections while acknowledging the child's sense of time and attention span.<sup>73</sup> The Manual provides a philosophy and structure consistent with the child development principles summarized in Section II above.<sup>74</sup>

## V. Best Practices

A few legal commentators have given guidance to judges and attorneys on the matter of visitation. One of the first and most important publications addressing visitation is "Protocol for Making Reasonable Efforts to Preserve Families in Drug-Related Dependency Cases" from the National Council of Juvenile and Family Court Judges.<sup>75</sup> The Protocol stresses the importance of "continued and regular contact between family members,"<sup>76</sup> and goes so far as to recommend daily visits between a mother and her baby.<sup>77</sup> It also recommends that the judge reviewing the case determine whether reasonable efforts have been exercised by examining the frequency and quality of visits.<sup>78</sup>

The State of Iowa through its Court Improvement Program published a Resource Manual entitled "Visitation Issues in Juvenile Court."<sup>79</sup> The project was developed by the Iowa Supreme Court Select Committee, the Iowa Court Improvement Project, and the Seventh Judicial District Demonstration Project. The publication contains information for judges who are

deciding visitation cases in the context of the juvenile court. The Resource Manual stresses the importance of visitation during the reunification process.<sup>80</sup> It includes child development information so that judges, social workers, and attorneys can make the best decision possible for the child and family given the age of the child.<sup>81</sup> The Resource Manual also includes comments on the importance of sibling relationships and sibling visitation.<sup>82</sup> Several Iowa judges wrote sections of the Resource Manual reflecting the judiciary's interest in the visitation issues.

There are also many experts in the field of social work who assert the importance of visitation in child protection cases.<sup>83</sup> According to these experts, visitation has great value in effectively assessing a family and developing a successful reunification plan or permanency plan if reunification is not possible. As one commentator states, "Parent-child visiting is the crux of concurrent planning."<sup>84</sup> Other commentators note that visitation serves multiple purposes, such as:

- Maintains family relationships during separation (including siblings and extended family). Children have other significant relationships in addition to their parents. All of these relationships must be maintained to protect the psychological health of the child.<sup>85</sup>
- Helps families cope with changing relationships even if reunification is not possible. Children can better understand why they cannot return home when the permanent plan is long-term foster care. In cases where adoption is the permanent plan, visits allow parents and children to say good-bye, facilitating the grieving process<sup>86</sup> necessary for healing to take place and adoption to be successful.<sup>87</sup>
- Empowers and informs parents, helping them to overcome their beliefs that they are incapable as parents and to develop self-confidence. Frequent visits allow parents to stay current with the changing developmental needs of their children, as well as keep up with their children's activities. Interaction with their children can reassure parents of their importance in their children's lives, an element that is essential for parents to develop the strength and confidence necessary for successful reunification.<sup>88</sup>

## Judicial Oversight of Parental Visitation

- Enhances children's well-being by decreasing the distress of separation, allowing a more normal developmental progress. Visiting reassures children that their parents have not abandoned them, which allows them to process the feelings provoked by the separation. Only when children have the opportunity to work through those feelings can their development progress.<sup>89</sup>
- Provides a reality check for families, parents, and children alike. Visiting allows parents to realistically come to terms with what parenting requires, including understanding and accepting what they are and are not capable of. When visiting occurs infrequently or not at all, parents may develop expectations of the "perfect" or "impossible" child and children may develop unrealistic expectations of a "fantasy" parent. These unrealistic expectations interfere both with reunification and with the reality that reunification may not be possible.<sup>90</sup>
- Provides a safe time and place for parents to practice new behaviors such as parenting skills, nurturing skills, and communication skills. Parents can safely experiment with new behaviors as they try to change. Social workers, therapists, foster parents, and others who supervise and participate in the visits can give immediate feedback and teach new skills.<sup>91</sup>
- Promotes accurate assessment by allowing the social worker to observe parents and children interact and determine whether the parent has learned new skills or has just taken some classes. Visits in the family home or other home-like environment are especially useful because they enable the social worker to assess the children's safety at home by observing the family interact naturally.<sup>92</sup>
- Provides a transition from foster care to reunification through a planned progression of visitation from supervised to unsupervised to overnight visits. This planned progression allows parents to gradually assume more responsibility for caregiving, allows the family and social worker to identify and resolve problems, allows the family to gradually adjust to the changes brought about by reunification, and allows foster parents and others to provide support during the reunification process.<sup>93</sup>

According to these commentators, for visitation to successfully facilitate reunification, the caseworker must undertake many steps including: developing a visiting plan; preparing participants for visits; coordinating the visit arrangements with all parties; reviewing and modifying the visiting plan as parents progress or do not progress; evaluating, interpreting, and documenting the visits; and planning for and assisting a child's return home.<sup>94</sup>

A good visitation plan should be based upon the parental behaviors and abilities that must change before reunification can take place, and it must balance the child's safety with the parents' need to act autonomously. Relatives and foster parents are essential partners to the success of the plan, particularly when they allow visitation in their homes, help with transportation and supervision, and model healthy parenting techniques.<sup>95</sup>

The commentators stress that preparing all parties for visitation enhances their ability to manage feelings that may arise during the visit. That preparation requires the caseworker to keep all parties informed about visiting arrangements as well as provide frequent opportunities to discuss their reactions and feelings about the visits.<sup>96</sup> Coordinating visits and keeping all parties informed requires the caseworker to attend to all the details of the visit—time, place, transportation, etc. The caseworker must be prepared to identify and resolve problems and revise the plan when necessary.<sup>97</sup>

The commentators further stress that the visitation plan must be modified to accommodate logistics, and it must be reviewed and revised periodically to reflect the progress of the parents. The plan must also be reviewed if parents are not making progress.<sup>98</sup> The caseworker must carefully evaluate and interpret the participants' reactions to visits in order to assess progress and make adjustments to the plan if necessary.<sup>99</sup>

As progress toward reunification is achieved, the caseworker's efforts turn to assisting the child's return home. There are three critical stages in this process: 1) when the child visits at home; 2) when the visits in the home are unsupervised; and 3) when the child stays overnight at home.<sup>100</sup> Bayless suggests that the progression toward the return home be spread out over a period of time, at least two months,<sup>101</sup> giving everyone a chance to adjust and resolve problems as they arise. If there are multiple children, she recommends returning



them sequentially in order to alleviate the possibility of over-burdening the family. She suggests that the time for the child's return home should not be set until the family has completed this progression and the caseworker and family are confident that the child is safe.<sup>102</sup>

If caseworkers are to effectively promote reunification by providing service plans that include frequent, regular visitation, they need the support of the agencies they work for. An agency that values visitation will have guidelines that emphasize the importance of maintaining contact among all family members and will have regulations mandating high standards of visiting practice.<sup>103</sup> Research has shown that, in agencies that have written visitation policies, including minimum standards of visiting frequency, caseworkers develop plans that comply with those standards; where there is no written policy, visitation varies unpredictably.<sup>104</sup>

At a minimum, agency visiting policy should specify some basic guidelines for visitation, including: 1) visits should begin within 48 hours of placement;<sup>105</sup> 2) visits should be at least once a week;<sup>106</sup> and 3) visits should take place in the child's home whenever possible. Further, visits should never be used as a reward or punishment; rather they should be guided by risk assessment and child safety.<sup>107</sup> The visitation plan should be in writing, be detailed, and be developed with the family. According to Bayless:

The degree to which visiting is an integral part of an agency's services reflects that agency's commitment to family reunification. The agency's written visiting policy, its placement practices, and its resource management and development can support or inhibit visiting. Without unequivocal agency support in policy, practice, and resources, visiting services will depend solely on the commitment of individual caseworkers or on court orders.<sup>108</sup>

By following these principles, the Agency will make a strong statement about the importance of visitation, not leaving it to the individual social worker to decide if visitation is a priority.

Planning for visits takes time and resources. The Agency needs low caseloads, flexible hours, cooperative foster parents, secure and comfortable places, assistance

with transportation, qualified and well-trained staff, reimbursement for visiting expenses, and the ability to record what happened during the visit.<sup>109</sup> "An agency committed to reunification must bear these high costs because visiting is essential to successful reunification."<sup>110</sup>

## **VI. The Role of the Juvenile Court Judge Regarding Visitation**

The juvenile court judge has legal responsibility for decisions regarding a child removed by the state from parental care. From removal to the establishment of a permanent plan, the judge must make legal findings to ensure that the child is safe, is given a fair opportunity to remain with or be reunited with her family, and reaches a permanent placement in a timely fashion. In the context of family reunification, the juvenile court judge must establish and oversee the delivery and adequacy of reunification services, including visitation.

The studies reviewed in this article indicate that visitation is critical to a child's emotional and developmental needs. They also indicate that children are more likely to be reunified with their parents if they have early and frequent visitation and that the trauma of separation is reduced by such visitation. They suggest minimum visitation standards to prevent further harm to a child already neglected or abused by her primary caregivers. The research indicates that most agencies are unable to provide the quality and quantity of visitation necessary in order to avoid re-traumatizing children in foster care. As a result, many judges remain frustrated as they are unable to secure the visitation that they believe would best serve the family. Some state that the reason they do not make stronger visitation orders is that the Agency does not have the capacity to provide this high standard of visitation. That may be true, but it is no excuse for not addressing the visitation more forcefully.

Judges must give visitation the attention it deserves. Administratively, judges can begin by meeting with Agency leaders and informing them of the Agency's duty to provide meaningful visitation. On a case-by-case basis, the judge can make court orders describing in some detail the quantity and quality of visitation necessary to serve the best interests of the child and to make the reunification process meaningful. If necessary, the court can utilize the "no reasonable efforts" finding to reflect

## Judicial Oversight of Parental Visitation

the Agency's lack of compliance with reasonable visitation standards.<sup>111</sup>

My experience with this issue may be instructive. In the late 1980s, supervised visitation for many children in foster care in Santa Clara County, Calif., took place in a large auditorium on Saturday mornings. The children would enter from one side of the building while the parents and other family members would enter from the other side. The families would visit for an hour with Sheriff's deputies watching to keep order over the large crowd of people. I was not satisfied with the quality of this visitation. I asked a clinical psychologist to evaluate a particular family and render a report to the court answering several questions including the following: 1) Were these visits serving the best interests of the child? and 2) Was this visitation environment supportive of the goal of family reunification? The psychologist's report indicated that the visits were not supportive of the family reunification goal.

I sent this report to the Director of the Agency along with a letter addressing the broader issues of visitation for all families who visited in this environment.<sup>112</sup> I suggested that visitation arrangements had to be changed in order to meet the reasonable efforts standard of federal and state laws. The result was that the Agency rented a house, converted it to a visitation center, and dramatically modified both the quantity and quality of visitation for all families in the family reunification process. Families were able to visit in private rooms, supervision and security were less intrusive, and visitation could take place on multiple days during the week rather than just Saturdays.

Some judges may believe that all visitation decisions should be left to the discretion of the Agency. Thus, a court order might read that the Agency shall have the discretion to determine whether there shall be visitation between the child and parents, the frequency and duration of visitation, the location, and the supervision, if any. Some state courts have ruled that such a delegation of authority is invalid.<sup>113</sup> Indeed, if the juvenile court has the responsibility to determine whether the Agency is providing reasonable efforts to parents attempting to reunify with a child, it is difficult to understand why judicial oversight of visitation would not be an important part of that responsibility.

The better practice is for the judge to determine

whether visitation should take place, the amount of that visitation, and whether it will be supervised.<sup>114</sup> The judge provides the objective overview of the child's best interests in the context of family reunification. The social worker's task would then be to implement the plan and to work out the details. This places a great deal of responsibility on the judge, but that is where it should be. It means that the question of moving from supervised to unsupervised visits will sometimes be an issue for the court to decide, as will the issue of whether the parents should have the child for overnight visits and whether the child should be placed at home on a trial basis. In this regard, the placement of the child (proximity to the parents' home) may be a critical practical issue the court will have to decide. When children are placed at a long distance from their parents, frequent visitation is more difficult.<sup>115</sup>

In addition to being an improper delegation of authority, to leave such decisions to the social worker is to run the risk that visitation will not increase even if the facts warrant it, or that unsafe visitation will take place without court approval or input from the representatives of the parties. It means that the court is not assuming responsibility over an important part of the reunification plan. It also may send the message that the judge does not believe that visitation is important and that the judge will not be reviewing its implementation.

The court and the Agency should also be creative with visitation. We should not think of visitation as including only parent-child face-to-face meetings or family counseling or therapy sessions. Parent-child contact can include letters, phone calls, e-mail, pictures, gifts, and audio or videotape exchanges. It can mean that parents attend school functions, parent-teacher conferences, IEP meetings, religious ceremonies, sporting events, and medical/dental appointments.<sup>116</sup> These contacts can become more critical when more traditional visits are infrequent.

Visitation with siblings, other relatives, and friends of the family also can serve the best interests of the child.<sup>117</sup> Maintaining these connections can be of great value to the child. The Iowa Resource Manual indicates that sibling separation can result in depression and in loss of self esteem.<sup>118</sup> In some states, sibling visitation is required by law and judges must address the issue in child protection cases.<sup>119</sup>

Visitation can alleviate many of the fears children experience in placement. It can reassure them that their parents have not died or abandoned them and that they are well. Parents can reassure children that they do not object to the placement in the new home, thus relieving the children of the guilt associated with living in a new family. Visitation will improve the short-term and long-term results for both children and their parents while at the same time reducing the degree of trauma experienced by all members of the family. Additionally, visitation will likely encourage the parents to try harder to engage in the case plan and be successful in reunification efforts. If visitation does not produce these results and parents do not complete the service plan, the task for the court to determine a permanent plan for the child becomes much easier. Reasonable efforts have been offered, but the parent has not taken advantage of them and it will be necessary to look for a permanent placement for the children elsewhere.<sup>120</sup>

## VII. Recommendations

Everyone in the child protection system from social workers to judges wants the best results for children. No one wants to unnecessarily inflict trauma upon children or their families. By improving the system's response to visitation, everyone in the process will be better served. Children and their families will experience less trauma, and permanency for children will be achieved more effectively. Social workers, attorneys, and judges will be more satisfied with their work since they will be minimizing the trauma to children and families that occurs when children are removed and maximizing the chances of family reunification.

What can we do to improve current practice? First, visitation must be recognized for what it is: a critical element of the child protection system. Judges and social workers must be ready to address the question of visitation in every case in which there is a removal and at almost every court hearing thereafter. Attitudes about visitation must change. We must acknowledge that it is an essential ingredient to family reunification.<sup>121</sup>

Second, the court must make clear, enforceable, written visitation orders.<sup>122</sup> These orders establish the structure of visitation for each case both immediately after removal and during the reunification period.<sup>123</sup> They also set the tone of the court's attitude toward vis-

itation and inform all parties of the court's expectations. They need not and should not micro-manage the visitation process, but they should leave no doubt about its importance.<sup>124</sup>

Third, the juvenile court should develop local rules that address the visitation issue. Local rules demonstrate to the professionals and the community that the court is serious about visitation and that the court intends to address visitation in the context of each hearing. Appendices C and D offer examples of two local court rules. In this regard, the juvenile court should also encourage the Agency to develop its own philosophy and regulations regarding visitation as recommended by the child welfare experts referenced earlier in this article.

Fourth, the frequency and duration of visitation should be measured by the needs of the child and family and not by the capacity of the Agency or the convenience of Agency personnel. Child development principles should become the starting point for any analysis of how frequent visitation should be, how long it should last, where it should take place, and who should be present. After the court has determined the optimum visitation quantity and quality, the next question is what can be done to approximate that level of contact. The State of Maine has written admirable visitation guidelines that should be widely disseminated. These guidelines can serve as a starting point for many states to model. Recognizing the importance of visitation, the San Francisco Juvenile Court has written a local rule declaring the importance of visitation and outlining its frequency.<sup>125</sup>

Fifth, visitation should be a topic addressed at cross-systems training for all participants in the juvenile dependency court. The training session could address best practices and could also focus upon child development principles as well as strategies to increase the quantity and quality of visitation. By scheduling training time for visitation issues, the court will be making a statement about its importance in the reunification process.

Sixth, attorneys in the child protection system should make visitation the focus of their advocacy. They should insist on sufficient, high quality visitation to ensure that the family has a fair opportunity to reunite. As one legal commentator pointed out:

## Judicial Oversight of Parental Visitation

The attorneys use reasonable efforts to increase visitation arrangements. The agency often limits visitation to one hour a week at the agency office. In one case, the attorney literally pulled out the book describing reasonable efforts and pointed to the section about visitation.<sup>126</sup>

Seventh, everyone in the court system must acknowledge that more resources may be necessary to do what is right for the child and family members who are before the court. We have to be more creative in locating safe, nurturing places for visitation, and we must be prepared to stretch resources to ensure adequate frequency.<sup>127</sup>

Eighth, court systems should examine the best practices regarding visitation.<sup>128</sup> Many excellent visitation programs have been developed that can be models for courts seeking to improve their visitation programs.<sup>129</sup> In this regard, it is also important to identify the best practices regarding the role of the foster parent in visitation.<sup>130</sup> The role of the foster parent in the Family to Family programs<sup>131</sup> and in jurisdictions that practice concurrent planning offers useful models.<sup>132</sup> In both of these programs the caretaker (usually a foster parent) has been trained to work with the parent and child and to assist in the visitation process. Caretakers are identified before the child is removed, and they understand their obligation to enable the child to have frequent, meaningful contact with the parent. There are other, similar models, and these need to be studied and widely adopted.

Ninth, court improvement initiatives<sup>133</sup> should place an emphasis on programs that improve the quality and quantity of parent-child visitation. Best practices should be shared and technical assistance provided by agencies that have improved practice.

Tenth, federal reviews of state child welfare practices have identified visits with parents and siblings as one of the issues to be reviewed in every state. These reviews should address the issue of parental and sibling visitation and require each Program Improvement Plan (PIP) to set higher standards for both the quality and quantity of visitation.

Eleventh, more research on the best visitation practices needs to be conducted. Judges and social workers should insist that visitation decisions be research-based so that all can be assured that the best possible visitation decisions are being made.

Removing children from their parents is not about punishing the child or the parent for abusive or neglectful behaviors. The criminal law is written to address punishment for bad actions. The child protection system is about protecting children, supporting parents' growth, and, if possible, reunifying children with their parents. It is also about serving the best interests of children.<sup>134</sup> In this context, visitation is a critical element, one that is often overlooked by members of the child protection system. This can change if juvenile court judges and other leaders will consider the suggestions offered here.

A U T H O R ' S  
A D D R E S S :  
Judge Leonard P. Edwards  
Santa Clara County Superior Court  
191 North First Street  
San Jose, CA 95113

**AUTHOR'S NOTE:** I would like to thank Jennie Winter, Dr. David Arredondo, Kathy Fitzgerald Sherman, Simona Katcher, Judge William Jones (ret.), and Rachel Joseph for their assistance in the writing of this article.

## APPENDIX A

### GUIDELINES TO THE DEVELOPMENTAL NEEDS OF CHILDREN ACCORDING TO AGE\*

These guidelines are meant as general rules of thumb and should not be construed as hard and fast rules. They reflect what is known about the neuropsychological, emotional, and social development of the human child and the impact that separation and intermittent visitation might have on that child. It should be kept in mind that there are considerable individual differences between children and their circumstances independent of their developmental stage.

#### THE INFANT

For the child less than 8 to 12 months old, a sense of self has not yet entirely developed. Children at this age are capable of forming attachments to more than one caregiver, and in many cultures it is considered desirable for them to do so. This is not harmful for the child who hasn't yet differentiated self from other, nor identified with one particular individual as sole caretaker. In some cultures the caretaking of infants is shared, and this does not lead to any long-term deleterious effects. Especially for the younger infant, short, infrequent visitation probably does more for the adult than the child. Infants do not have a cognitive understanding of separation. They need stimulation, nurturing, consistency, and routines. The quality of that consistent care may be more important than who is providing it.

#### THE TODDLER

As children grow older, between the ages of 12 and 36 months, their identity begins to form and their personality structure begins to take shape. It is at this time that separation and individuation takes place, and it is believed that disruptions at this phase of development can lead to long-term negative aftereffects. This is particularly true if these disruptions occur in the presence of ongoing distress or lack of reliability in primary caregivers. At this stage of development, the child's reliance on an adult depends on daily and extended contact. The notion that one hour or even a few hours a week is enough to maintain an attachment between a caregiver and a child of this age is outdated. Visitation in these cir-

cumstances should be as protracted as possible if the best interests of the child are considered paramount. As a child approaches 18 months of age and older, his identity is well formed and he has strong identifications with one or another caregiver. When separations from these caregivers occur, this can cause considerable emotional pain to the child and concomitant distress and disruption of the developmental process. Sometimes children will regress psychologically. As children develop language capability, they are more able to articulate their distress, and verbal expressions as well as physical acting-out and/or withdrawal are more likely to be seen. It is important to remember that a child calling someone "mommy" or "daddy" at this stage of development means essentially nothing. The capacity for abstract thinking has not yet developed; therefore, care must be taken with the use of language. For example, if a child is told that he has "lost his mommy," then the child will assume that his mommy will be "found."

#### LATENCY

By the time children have reached 6 and 7 years of age, they have developed strong self-identities and differentiations of themselves from others, as well as strong attachments to particular caregivers. These attachments, even when ambivalent, are quite strong. Separation can lead to considerable anxiety, stress, self-doubt, blame, guilt, shame, and fear. The longer the caregiver and the child have been connected, the more likely this attachment is to be important to the child (as a generality) and therefore the more distressful a disruption. Latency age children often use denial as a coping strategy. They are capable of abstract thinking and can become very anxious and fearful. Separation can be extremely traumatic for them and is unlikely to be mitigated by infrequent short visits.

#### EARLY TEENAGE YEARS

As a child enters the teenage years and beyond, the relationship with parents becomes highly ambivalent as he develops autonomy from adults. At this developmen-

\* These guidelines were prepared by David Arredondo, M.D., Medical Director of the Office of Child Development, Neuropsychiatry and Mental Health (<http://www.childrensprogram.org>), an affiliate of the National Council of Juvenile and Family Court Judges (<http://www.ncjfcj.org>).

tal stage, children may express no desire whatsoever to see their parents and may even express relief that they don't have to. This occurs in normal families and should not be misconstrued as evidence that the child does not have a meaningful connection with their parental figure. They are likely to be egocentric and preoccupied with their own needs. Often they will try to deny or intellectualize their true feelings. There is much emotional flux in this developmental stage, and strong feelings can swing from one extreme to another within days. Young teens may express indifference or nonchalance to visitation, but their behavior often belies the pain that they are trying to avoid. These young adolescents are exquisitely sensitive to genuineness on the part of adults and are very quick to spot hypocrisy. In this age group, it is especially frightening to see adults emotionally disintegrate. A young teen may want to avoid visitation to avoid the fear engendered by seeing a distraught parent. On the other hand, young teenagers sometimes begin to fantasize intensely about parents

who have been absent from their lives. As one child put it, "The system has always tried to protect me from the disappointment of my parents rejecting me again, but isn't that *my* risk to take?"

### LATE TEENAGE YEARS

As children approach their later teenage years, their connection with their primary caregiver is no less important, but visitation can be briefer and less frequent. The child has interiorized a solid sense of self and of other and therefore can carry around an interiorized version of the caregiver. This allows protracted separations without undue feelings of loss or despair. Often older teens will share their distress with other teens, but one should not assume that this is happening. They are in need of structure and limits and are quite capable of understanding adult concepts. They should be given a much larger voice in visitation than younger children who tend to use more primitive coping strategies.

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**APPENDIX B**

**VISITATION QUESTIONNAIRE**

1. When children are removed from their parents, what is the standard visitation order that your court makes? How many visits for how many hours each week?

A. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Where do these visits normally take place?

A. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Are these visits supervised?     Yes     No

4. If yes, who does the supervision?

A. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. How often do you believe that parent-child visits should take place each week?

A. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. If you had the ability to make it happen, where should supervised visits take place?

7. Why don't they take place there regularly?

8. Why doesn't visitation take place as often as it should?

A. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your Name \_\_\_\_\_ Jurisdiction \_\_\_\_\_

**APPENDIX C**

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA  
JUVENILE COURT RULES**

**K. PARENTAL VISITATION BEFORE DETENTION HEARING**

- (1) Any child taken into temporary custody shall have supervised visitation with one or both parents or guardians before the detention hearing takes place unless the social worker has a reasonable belief that the child or his or her temporary custodian would be endangered by the disclosure of the child's exact whereabouts or that the disclosure would cause the custody of the child to be disturbed (W & I Section 308).
- (2) Whenever a child is taken into temporary custody, the social worker shall inform the parent or

guardian of the child's condition and his or her general location and offer supervised visitation pursuant to 2.11.1 above.

- (3) Immediately after a child is taken into temporary custody, the social worker shall ensure that the child has regular telephone contact with his or her parent pursuant to Welfare and Institutions Code Section 308, unless that contact would be detrimental to the child.
- (4) If the social worker fails to follow procedures listed in section 2.11, he or she shall note the reasons therefore in the papers prepared for the detention hearing.



APPENDIX D

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO  
JUVENILE DIVISION  
STANDING ORDER NO. 201  
VISITATION**

IT IS THE ORDER of the Superior Court, Juvenile Division, City and County of San Francisco, that any child taken into temporary custody pursuant to Welfare and Institutions Code §§ 300, et seq., shall have visitation with his/her parent(s) or guardian(s), as follows:

1. The first visit his/her parent(s)/guardian(s) shall occur within five (5) calendar days of the date the child was taken into temporary custody.
2. Between the time of detention and the first jurisdictional hearing, supervised visitation shall be offered for no less than three (3) hours per week. Any additional or unsupervised visitation shall be in the discretion of the child welfare worker. The Department of Social Services, however, shall at the time of detention and the J-1 hearing be given the opportunity to show cause relating to the facts of the particular case as to why visitation should not be granted or should be decreased. If good cause is shown, appropriate orders shall be issued limiting the visitation.
3. Subsequent to the First Jurisdictional hearing and until disposition, the visitation shall be set as follows unless the Department of Social Services can show good cause as to why such visitation should not be granted or should be decreased:
  - a) Newborns to five-year-olds shall have at least six hours of visitation with their parent(s) or guardian(s) per week.
  - b) Six-year-olds to eighteen-year-olds shall have at least three hours of visitation with their parent(s) or guardian(s) per week.
  - c) Visitation should be as frequent and convenient, as possible, for all parties.
4. If, subsequent to the J-1 hearing, the Department of Social Services believes that it cannot comply with any specific visitation order, it shall immediately notify the Court in writing. As soon as practicable thereafter, the Court will convene all parties in an effort to resolve the matter. Thereafter, if deemed appropriate, parties may bring requests for orders to show cause re contempt.
5. It is further ordered that if a parent or guardian misses a visit, after confirming that visit, and without reasonable justification, visitation may be terminated by written notice to the parent(s) or guardian(s). Reinstatement of visitation terminated pursuant to this paragraph can only be accomplished by agreement with the child welfare worker or by application by the parent(s) or guardian(s) to the Court and by a subsequent order of the Court.
6. The provisions of items 1 through 5 do not address visitation where minors are detained with relatives, unless it is a case requiring that visitation be supervised by the Department of Social Services. It may, however, serve as a guide for the fashioning of particular visitation orders in those situations.
7. Where the Court has ordered a parent to have reasonable visitation with his or her child, and that parent has failed to have any visits with the child, whether or not such visits were arranged by the Department of Social Services, or has failed to contact his/her child for a period of not less than six months, the absence of the parent is likely to indicate that a resumption of the visits will be detrimental to the child. In such a situation, the following will apply:
  - a) If a parent requests a resumption of visitation in a pre-permanent plan case, and if the Department of Social Services worker assigned to the case determines that a resumption of visitation would be detrimental to the child, the social worker shall inform the parent and his/her attorney of that in writing. The child welfare social worker shall, through counsel, file and serve a Declaration documenting the

## Judicial Oversight of Parental Visitation

lack of contact between the parent and child as well as efforts that have been made by the worker to encourage visitation and contact. The social worker shall direct the parent to contact his/her attorney to initiate a visitation motion. If the parent is not represented, the social worker shall direct the parent to contact a DSS Court Officer for appointment of counsel. Where reasonable grounds exist, it shall be incumbent upon counsel for the parent to initiate a visitation motion to reinstate visitation.

- b) If a permanent plan has been adopted by the Court in a particular case, and the child welfare worker has denied further visitation because of a failure of the parent to visit or contact the child in six months, the burden will be on the parent to file a motion for a resumption of visitation and to demonstrate that the visitation sought is in the best interests of the minor.

Dated: APR 01 1994

/s/ Donna J. Hitchens

Donna J. Hitchens

Judge of the Superior Court

## END NOTES

- 1 For example, in Santa Clara County, there were more than 22,000 child abuse reports in 2002. Of these, fewer than 900 children became the subject of court proceedings. Santa Clara Dep't of Family and Children's Services, Children's Shelter Admitting Agency Statistics (2003).
- 2 *E.g.*, Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272, 94 Stat. 500 (codified as amended in scattered sections of 42 U.S.C.); Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115 (codified as amended in scattered sections of 42 U.S.C.); Cal. Welf. & Inst. Code §§ 300 *et seq.* (Deering 2003).
- 3 *Id.* at § 302(C)(2).
- 4 See discussion *infra* Section III regarding the survey conducted by the author.
- 5 42 U.S.C.S. § 671(a)(19) (Law. Co-op. 2003); Cal. Welf. & Inst. Code § 371. 3 (Deering 2003); *see generally* Jill Duerr Berrick, Bay Area Social Services Consortium, Assessing Quality of Care in Kinship and Foster Family Care iii-ix, 6, 35 (1996).
- 6 Janet R. Johnston & Vivienne Roseby, *In the Name of the Child: A Developmental Approach to Understanding and Helping Children of Conflicted and Violent Divorce* (New York: Free Press, 1997).
- 7 Judith S. Ryeus & Ronald C. Hughes, *Field Guide to Child Welfare* 702-03 (Washington, DC: CWLA Press, 1998); David Fanshel & Eugene B. Shinn, *Children in Foster Care: A Longitudinal Study* (New York: Columbia University Press, 1978); Eugene A. Weinstein, *The Self-Image of a Foster Child* (New York: Russell Sage Foundation, 1960).
- 8 Nancy Tabor, State of Iowa Court Improvement Project, Resource Manual: Visitation Issues in Juvenile Court 22 *et seq.* (2001) [hereinafter Iowa Resource Manual].
- 9 Bruce D. Perry, The Child Trauma Academy, Bonding and Attachment in Maltreated Children: Consequences of Emotional Neglect in Childhood (2001). "Connection" is used here to refer to attachment bonds which children form with primary caregivers and family. These relationships bring a sense of safety, comfort, soothing, and pleasure, and the loss or threat of loss evokes intense distress. Regarding the concepts of attachment, bonding, and reciprocal connectedness, see generally, David Arredondo & Leonard Edwards, *Attachment, Bonding, and Reciprocal Connectedness: Limitations of Attachment Theory in the Juvenile and Family Court*, 2 J. of the Center for Fam., Child., & the Cts. 109 (2000). Reciprocal connectedness is "a mutual interrelatedness that is characterized by two-way interaction between a child and an adult caregiver and by the caregiver's sensitivity to the child's developmental needs." *Id.* at 112.
- 10 "When such people become adults it is hardly surprising that they have no confidence that a care-taking figure will ever be truly available and dependable. Through their eyes the world is seen as comfortless and unpredictable; and they respond by either shrinking from it or doing battle with it." 2 John Bowlby, *Attachment and Loss: Separation, Anxiety, and Anger* 208 (1973). *See also*, Ryeus & Hughes, *supra* note 7, at 706-08.
- 11 Committee on Early Childhood, Adoption and Dependent Care, *Developmental Issues for Young Children in Foster Care*, 106 American Academy of Pediatrics, 1145, 1147 (2000) [hereinafter Developmental Issues]. Arredondo & Edwards, *supra* note 9, at 112.
- 12 Videotape: Separation and Bonding: The Effects of Placement on Children (Ann Coyne, State of Nebraska Permanent Families Project Task Force and Nebraska Continuing Legal Education, Inc. 1987) (on file with the author and the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges) [hereinafter Separation and Bonding]. Arredondo & Edwards, *supra* note 9, at 111-12.
- 13 Arredondo & Edwards, *supra* note 9, at 111.
- 14 Separation and Bonding, *supra* note 12. The author visited an orphanage in Sao Paulo, Brazil, in 1994, and there encountered hundreds of children living in groups of 80 to 100 in separate parts of the institution. They were separated by age and cared for by one or two caretakers at a time. Upon entering each room there was a surge of energy as all of the children clustered around with their arms up ready to be held. It was apparent that connecting with an adult was a basic need, as important as food and water.
- 15 Separation and Bonding, *supra* note 12.
- 16 *Id.*
- 17 *Id.* *See also*, Bowlby, *supra* note 10.
- 18 Separation and Bonding, *supra* note 12.
- 19 Elisabeth Kubler-Ross, *On Death and Dying* (New York: MacMillan, 1970). The stages of grief as proposed by Kubler-Ross in this work are now a well-accepted theory of understanding the way humans cope with loss and are utilized by professionals such as Ann Coyne, Separation and Bonding, *supra* note 12, in their work with children and adults to facilitate healing after a loss.
- 20 Separation and Bonding, *supra* note 12.
- 21 *Id.*
- 22 Many are incorporated in the federal law, see *supra* note 2, which stresses timely permanency and the avoidance

END NOTES

- of foster care drift. Foster care drift describes the situation of children lost in the child welfare system who move from placement to placement without ever reaching a permanent home. See Marsha Garrison, *Why Terminate Parental Rights?*, 35 Stan. L. Rev. 423 (1983).
- 23 Ryeus & Hughes, *supra* note 7.
- 24 Peg McCartt Hess & Kathleen Proch, *Visiting: The Heart of Reunification*, in Together Again: Family Reunification in Foster Care 122 (Barbara A. Pine et al. eds., Washington, DC: Child Welfare League of America, 1993); N. Littner, *The Importance of Natural Parents to the Child in Placement*, 54 Child Welfare 175 (1975); Developmental Issues, *supra* note 11, at 1148.
- 25 Peg McCartt Hess & Kathleen Proch, *Family Visiting in Out-of-Home Care: A Guide to Practice* 1 (Child Welfare League of America ed., 1988); David Fanshel, *Parental Visiting of Children in Foster Care: Key to Discharge?*, 49 Soc. Service Rev. 493 (1975); Henry S. Maas & Richard E. Engler, Jr., Children in Need of Parents 1959; E. Mech, Joint Interim Committee of Health and Welfare, Public Welfare Services for Children and Youth in Arizona, 19th Legislature (1970); Jerry L. Milner, *An Ecological Perspective on Duration of Foster Care*, 66 Child Welfare 113, 116 (1986); Lenore McWey, *I Promise to Act Better if You Let Me See My Family: Attachment Theory and Foster Care Visitation*, 5 J. of Fam. Soc. Work 91 (2000); Peg Hess, *Case and Context: Determinants of Planned Visit Frequency in Foster Family Care*, 67 Child Welfare 311, 323 (1988); Inger Davis et al., *Parental Visiting and Foster Care Reunification*, 18 Child. & Youth Services Rev. 363 (1996); Fanshel & Shin, *supra* note 7; Elizabeth A. Lawder et al., *A Study of 185 Foster Children 5 Years after Placement*, 65 Child Welfare 241, 248 (1986).
- 26 Linda Bayless et al., Child Welfare Institute, *Achieving Permanence Through Teamwork* (1991).
- 27 Developmental Issues, *supra* note 11.
- 28 *Id.*
- 29 See also Lois E. Wright, *Using Visitation to Support Permanency: Toolboxes for Permanency 9-14* (Washington, DC: CWLA Press, 2001).
- 30 Hess & Proch, *supra* note 24, at 1; Barbara Pine et al., *Training for Competence in Family Reunification Practice*, in Together Again: Family Reunification in Foster Care, *supra* note 24, at 46.
- 31 See Inger Sagatun-Edwards & Colleen Saylor, *A Coordinated Approach to Improving Outcomes for Substance-Abusing Families in Juvenile Dependency Court*, 51(4) Juv. & Fam. Ct. J. 1 (2000).
- 32 Developmental Issues, *supra* note 11, at 1149.
- 33 The Model Courts Project is formally called "Improving the Juvenile and Family Courts' Handling of Child Abuse and Neglect Cases: A Model Training and Technical Assistance Program Development Project." The Project was established in 1992 in response to congressional passage of the Victims of Child Abuse Act of 1990, Pub. L. No. 101-647, 104 Stat. 4789, (codified as amended in scattered sections of 42 U.S.C.). The first step in the Project was to research and write the *Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases*, National Council of Judicial and Family Court Judges (1995). The Resource Guidelines have become the acknowledged standard for good practice in juvenile dependency Courts. "...[J]udges are encouraged to follow the resource guidelines of the National Council of Juvenile and Family Court Judges..." Cal. R. of Ct., App., § 24.5 (Deering 2003).
- 34 National Council of Juvenile and Family Court Judges, Status Report 2001: A Snapshot of the Child Victims Act Model Courts Project (2002).
- 35 Alexandria, Va.; Buffalo, N.Y.; Charlotte, N.C.; Chicago, Ill.; Cincinnati, Ohio; Des Moines, Iowa; El Paso, Texas; Honolulu, Hawaii; Indianapolis, Ind.; Los Angeles, Calif.; Louisville, Ky.; Toledo/Lucas County, Ohio; Miami/Dade County, Fla.; Nashville, Tenn.; New Orleans, La.; New York, N.Y.; Newark, N.J.; Omaha, Neb.; Portland, Ore.; Reno, Nev.; Salt Lake City, Utah; San Jose, Calif.; Tucson, Ariz.; Washington, D.C.; and Zuni Pueblo, N.M.
- 36 See generally National Council of Juvenile and Family Court Judges, Model Courts Child Victim's Project Status Reports 1997-1998, 1999-2000, and 2001-2002 (1997-2002).
- 37 A copy of the questionnaire is located in Appendix B.
- 38 Some of the judges offered more than one reason to this answer.
- 39 This response is consistent with what CPS agencies report. See Nancy Thoennes & Jessica Pearson, *Supervised Visitation: A Profile of Providers*, 37 Fam. & Conciliation Cts. Rev., 461, 470 (1999).
- 40 The total population of these additional counties is approximately 10,000,000. When added to the populations of the Model Court jurisdictions, the total population is approximately 50,000,000, and the total number of children in foster care is approximately 135,000 or 24% of the children in foster care in the United States. The author is using 542,000 as the figure of children in foster care in

## END NOTES

- the United States, the number of foster children as reported by the Children's Bureau, U.S. Department of Health and Human Services, <http://www.acf.hhs.gov/programs/cb/publications/afcars/report8.htm> (March 2003). The author understands the 542,000 figure is from 2001 and may overstate the number of children in foster care today.
- 41 Adoption Assistance and Child Welfare Act, *supra* note 2; Adoption and Safe Families Act, *supra* note 2.
- 42 National Center on Child Abuse and Neglect, *Child Protective Services: A Guide for Caseworkers*, U.S. Dep't of Health & Hum. Services, Admin. for Child. & Families, 4 (1992). In a small percentage of these cases, the court may order that no family reunification services be offered to the parents. These are the most serious cases where the parental behavior or parental history of abuse or neglect permits the judge to conclude that services would not be in the child's best interests. This article is not addressing these situations. Indeed, visitation may not be indicated in these cases. For a more general discussion of the operation of the federal law, see Leonard Edwards, *Improving Implementation of the Federal Adoption Assistance and Child Welfare Act of 1980*, 45(3) Juv. & Fam. Ct. J. 3 (1994) [hereinafter *Improving Implementation*].
- 43 See generally, ASFA and The Act, *supra* note 2; 42 U.S.C. § 670 *et seq.* (1997); and *Improving Implementation*, *supra* note 42, at 4-6.
- 44 The legal standard for removal of a child from a parent is that continued placement of a child with the parent or guardian would be contrary to the child's welfare. 42 U.S.C. § 672(a)(1) (1989).
- 45 *Id.*
- 46 "The courts also have the responsibility to make foster care a healing process." *Developmental Issues*, *supra* note 11, at 1148.
- 47 *Improving Implementation*, *supra* note 42, at 19-21.
- 48 Both federal and state laws permit the state to "bypass" services to a parent under certain factual circumstances. For example, a parent who was responsible for the death of one child may not receive family reunification services for siblings who have been removed by the state. Adoption and Safe Families Act, *supra* note 2, at § 101(D); Cal. Welf. & Inst. Code §§ 362.1 & 361.5 and Cal. R. of Ct. 1456(f)(5) (Deering 2003).
- 49 *Id.*
- 50 *In re Misako R.*, 3 Cal. Rptr. 2d 217, 220 (Cal. Ct. App. 1991); *In re Mario C.*, 276 Cal. Rptr. 548, 603 (Cal. Ct. App. 1990).
- 51 *In re Jennifer G.*, 270 Cal. Rptr. 326, 327 (Cal. Ct. App. 1990); *In re Jeffrey S.*, 1998 WL 879652, at \*10 (Ohio App. 6 Dist. 1998).
- 52 *In re Luke L.*, 52 Cal. Rptr. 2d 53, 58 (Cal. Ct. App. 1996).
- 53 Cal. Welf. & Inst. Code § 362.1 (West 2003); Cal. R. of Ct., Rule 1456(f)(3) (Deering 2003).
- 54 *In re Julie M.*, 81 Cal. Rptr. 2d 354, 359 (Cal. Ct. App. 1999).
- 55 *In re Dylan T.*, 76 Cal. Rptr. 2d 684 (Cal. Ct. App. 1998).
- 56 *Adoption of Galvin*, 773 N.E.2d 1007 (Mass. App. Ct. 2002). "[I]t is the judge, in the first instance, who 'shall determine...that such visitation rights be implemented through a schedule of visitations or supervised visitations'" *Id.* at 1009; *In re Jennifer G.*, *supra* note 42.
- 57 *In re Donovan J.*, 68 Cal. Rptr. 2d 714 (Cal. Ct. App. 1997).
- 58 *In re Julie M.*, *supra* note 54, at 358; *In re Danielle W.*, 255 Cal. Rptr. 344, 350 (Cal. Ct. App. 1989).
- 59 *In re Dino E.*, 8 Cal. Rptr. 2d 416, 421 (Cal. Ct. App. 1992).
- 60 *Scrivner v. Andrews* 816 F.2d 261 (6th Cir. 1987).
- 61 *State of Vt. Dep't of Soc. & Rehab. Serv. v. U.S. Dep't of Health & Human Serv.*, 798 F.2d 57, 60 (2nd Cir. 1986).
- 62 *Bates & Sanders v. Johnson*, No. 84-C-10054, (N.D. Ill. Apr. 3, 1986) (Agreed Order).
- 63 See Jeanine Smith, Monitor, Bates Consent Decree, et al., Cook County Survey (1995); for further information, contact Bruce Boyer, Supervising Attorney, Children and Family Justice Center, Northwestern University Legal Clinic, 357 East Chicago Avenue, Chicago, Illinois 60611-3069.
- 64 Peg McCartt Hess & Kathleen Proch, *How the States Regulate Parent-Child Visiting*, 64 Public Welfare 12 (1986).
- 65 California Department of Social Services, Manual of Policies and Procedures (no date available).
- 66 Section 31-340. *Id.*
- 67 Maine Department of Human Services, Child and Family Services Manual (2002).

END NOTES

- 68 *Id.* at 1 in Section V, Subsection E.
- 69 *Id.*
- 70 *Id.* at 2.
- 71 *Id.* at 4-5.
- 72 *Id.* at 9.
- 73 *Id.*
- 74 The Maine Agency's development of a philosophy, policies, and procedures regarding visitation is consistent with recommendations from child welfare experts. See Hess, *Case and Context: Determinants of Planned Visit Frequency in Foster Family Care*, *supra* note 25, at 323.
- 75 National Council of Juvenile and Family Court Judges, *Protocol for Making Reasonable Efforts to Preserve Families in Drug-Related Dependency Cases* (1992).
- 76 *Id.* at 4 & 21.
- 77 *Id.* at 20.
- 78 *Id.* at 22.
- 79 Iowa Resource Manual, *supra* note 8.
- 80 "Visits between a child and parent are a right for the child and the parent, and are necessary for both parents to maintain, build on, and repair the attachments in the family system. Research has identified early and frequent visits between a child and the parents as one of the strongest indicators of reunification." *Id.* at 9.
- 81 *Id.* at 22 *et seq.* In addition to Appendix A of this article, another source of information regarding the developmental needs of children can be found in Wright, *supra* note 29, at 7-13.
- 82 *Id.*
- 83 See authorities cited in Section I, *supra* notes 1-5.
- 84 Concurrent Planning is working toward family reunification while, at the same time, developing an alternative permanent plan. Linda Katz, *Concurrent Planning: Fifteen Years Later*; *Adopttalk* 12 (1996). See also Videotape: Visits (Lutheran Community Services Concurrent Planning Video Series 1998) [hereinafter Visits]; Linda Katz, *Effective Permanency Planning for Children in Foster Care* 35 *Social Work* 220 (1990).
- 85 Separation and Bonding, *supra* note 12.
- 86 Grieving may not be the correct term here. For the child, the notion of permanent loss is cognitively inconceivable. The child has a feeling of painful longing for someone loved/depended upon and lost.
- 87 Bayless, *supra* note 26, at 121.
- 88 *Id.* at 121-22.
- 89 *Id.*
- 90 *Id.* at 122-23.
- 91 *Id.* at 123.
- 92 *Id.* at 124.
- 93 *Id.*
- 94 *Id.* at 125; Lynn Loar, *Making Visits Work*, 77 *Child Welfare* 41, 44 (1998).
- 95 Bayless, *supra* note 26, at 125.
- 96 *Id.* at 125-26.
- 97 *Id.* at 126.
- 98 *Id.* at 126-27.
- 99 *Id.* at 129.
- 100 *Id.* at 130.
- 101 The author is not endorsing the "two month" progression recommended by Bayless in her article. The transition period should be structured to meet the individual needs of the child or children and the family members involved.
- 102 The judge may choose to set a tentative date for return of a child. The purpose of this is to encourage the parents to continue to make progress on their case plan.
- 103 Bayless, *supra* note 26, at 132; Wright, *supra* note 29, at 46.
- 104 Bayless, *supra* note 26, at 132-33; "These findings strongly support the development of policies that establish minimum standards for visiting plan arrangements." Hess, *Case and Context: Determinants of Planned Visit Frequency in Foster Family Care*, *supra* note 25, at 323.
- 105 Bayless, *supra* note 26, at 132-33. See Appendix C for an example of how a local rule of court addresses this issue.

END NOTES

- 106 But for younger children, visits must be more frequent than once a week. "A young child's trust, love, and identification are based on uninterrupted, day-to-day relationships. Weekly or other sporadic 'visits' stretch the bounds of a young child's sense of time and do not allow for a psychologically meaningful relationship with estranged biological parents." *Developmental Issues*, *supra* note 11, at 1149. For a developmental perspective on the frequency of visitation, refer to Appendix A. In the author's dependency court, visits are normally twice a week with adjustments depending on the child's age. See also Appendix D for the local visitation rule in the San Francisco Juvenile Court.
- 107 Bayless, *supra* note 26, at 132.
- 108 *Id.* at 132.
- 109 *Id.* at 134-38.
- 110 *Id.* at 138.
- 111 Improving Implementation, *supra* note 42, at 19-21; Mark Hardin et al., ABA Center on Children and the Law, A Second Court That Works, 88 & 97 (1995) [hereinafter A Second Court That Works].
- 112 A copy of a similar letter can be found in Improving Implementation, *supra* note 42, at Appendix A.
- 113 "There is no question but that the power to regulate visitation between minors determined to be dependent children and their parents rests in the judiciary." *In re Jennifer G.*, *supra* note 51, at 327; *In re Shawna M.*, 24 Cal.Rptr.2d 126, 128 (Cal. Ct.App. 1993).
- 114 See generally, Leonard P. Edwards, *The Juvenile Court and the Role of the Juvenile Court Judge*, 43(2) Juv. & Fam. Ct. J., 25 (1992).
- 115 Wright, *supra* note 29, at 51-72.
- 116 George Newman, 101 Ways To Be A Long Distance Super-Dad (Mountain View, CA: Blossom Valley Press, 1981).
- 117 On the issue of relative preference, see Cal. Welf. & Inst. Code §§ 361.3 & 366.26(k) (West 2003) and *Cesar V. v. Superior Court*, 111 Cal.Rptr.2d 243 (Cal. Ct.App. 2001). On sibling visitation, see Eric Marrus, "Where Have You Been Fran?" *The Right of Siblings to Seek Court Access to Override Parental Denial of Visitation*, 66 Tenn. L. Rev. 977, 980 (1999); William Wesley Patton & Sara Latz, *Severing Hansel From Gretel: An Analysis of Siblings' Association Rights*, 48 U. Miami L. Rev. 745 (1994); Eric Martin, *Maintaining Sibling Relationships for Children Removed from Their Parents*, 22 Children's Legal Rights Journal 47 (2003); and citations *supra* note 8.
- 118 Iowa Resource Manual, *supra* note 8, at 22 et seq.
- 119 "Siblings possess the natural, inherent and inalienable right to visit with each other..." *In re Interest of Daniel W.*, 529 N.W.2d 548, 640 (Neb. Ct.App. 1995), *reversed on other grounds* 542 N.W.2d 407 (Neb. 1996), citing *L. v. G.*, 497 A.2d 215, 222 (N.J. Ch. 1985). See also, *In re Patricia A.W.*, 392 N.Y.S.2d 180 (N.Y. Fam. Ct. 1977); *Obey v. Degling*, 337 N.E.2d 601 (N.Y. 1975); *In the Matter of the Adoption of Anthony*, 448 N.Y.S.2d 377 (N.Y. Fam. Ct. 1982); *Adoption of Galvin*, *supra* note 56; Cal. Welf. & Inst. Code §§ 362.1, 16002, & 16501.1 (Deering 2003); and Cal. R. of Ct. §§ 1442(g) & 1456(f)(4) (Deering 2003). "...[A]ny order placing a child in foster care and ordering reunification services shall provide...(2) for visitation between the child and any siblings, unless the court finds by clear and convincing evidence that sibling interaction is detrimental to either child." § 362.1. And see *L., K., C., & H.K., v. G. & H., His Wife*, 497 A.2d 215 (N.J. Ch. 1985), which reviews the sibling contact statutes for numerous states and affirms that "...siblings possess the natural, inherent and inalienable right to visit with each other." *Id.* at 222.
- 120 Judge John Steketee of Kent County, Mich., stressed the importance of excellent services delivered early in the case. In that way the court would more easily be able to make the "reasonable efforts" findings and a child reach timely permanency. See Improving Implementation, *supra* note 42, at 18. For more information about the Kent County Juvenile Dependency Court, see A Second Court That Works, *supra* note 111.
- 121 The survey of judges regarding visitation was very encouraging. In the survey, a number of judges expressed their dissatisfaction with current practice and had ideas for improvement. One judge said, "I feel DPSS should establish a Visitation Division that could be staffed by trained transporters and monitors who need not be professionally trained social workers (i.e., responsible adults, even relatives not willing to take placement but willing to supervise visits). The division would be responsible solely to insure that visitation occurs and would report to the social worker handling the case." Another stated, "We have to 'fix' the system as it relates to visitation during the reunification period. It is ludicrous for us to believe that one hour per week will help families reunify....we also have to change from a 9:00 a.m.-5:00 p.m. mode to a 7:00 a.m.-10:00 p.m. mode, seven days a week. Why shouldn't there be a way for parents of a teen to have supervised visits from 6:00 to 9:00 p.m.? Why shouldn't a parent be able to help a child get ready for school, or to have breakfast with a child? To the extent we can 'normalize' the visits, we might have better outcomes during the reunification process."

### END NOTES

- <sup>122</sup> Janet Chiancone, *Visitation: What Lawyers Should Know*, 16 Child Law Practice 81, 85 (1997).
- <sup>123</sup> It is critical that early visitation be offered to the parent and child. "The success of early visits is often the best indicator of likely outcomes in family reunification cases." Loar, *supra* note 94, at 56. See Appendix C for an example of a local rule addressing visitation immediately after removal.
- <sup>124</sup> "The court should make certain that adequate supervised visitation resources exist to permit regular visitation in a family friendly setting." Leonard P. Edwards, *Improving Juvenile Dependency Courts: Twenty-Three Steps*, 48(4) Juv. & Fam. Ct. J. 12 (1997).
- <sup>125</sup> A copy of the rule is contained in Appendix D.
- <sup>126</sup> A Second Court That Works, *supra* note 111, at 88 & 97. The "book" mentioned in the first quotation is probably Protocol for Making Reasonable Efforts to Preserve Families in Drug Related Dependency Cases, *supra* note 75.
- <sup>127</sup> The court may turn to Court Appointed Special Advocates (CASAs) to assist in the visitation strategy.
- <sup>128</sup> Wright, *supra* note 29, at 106-18.
- <sup>129</sup> Mark D. Simms & Barbara J. Bolden, *The Family Reunification Project: Facilitating Regular Contact Among Foster Children, Biological Families, and Foster Families*, 70 Child Welfare 679, 686 (1991).
- <sup>130</sup> Hess & Proch, *supra* note 25, at 50-54.
- <sup>131</sup> The Annie E. Casey Foundation, *Family to Family: Recruitment, Training and Support* 5-12 (2002).
- <sup>132</sup> Katz, *Adopttalk*, *supra* note 84; Maria Martin et al., Bay Area Social Services Consortium, *Concurrent Planning for Timely Permanency: The Influence of Children's Characteristics, Prognosis Indicators, and Agency Staff Perceptions* 3-17 (1999); Simms & Bolden, *supra* note 129, at 686.
- <sup>133</sup> Court Improvement was created by federal statute in 1993. Family Preservation and Support Act (Omnibus Budget Reconciliation Act of 1993), Pub. L. No. 103-66, § 13712, 107 Stat. 312. For Court Improvement information, see Edwards, *supra* note 124; Diane Boyd Rauber et al., ABA Center on Children and the Law, *Court Improvement Progress Report*, (2002); and Mark Hardin, ABA Center on Children and the Law, *Improving Courts' Handling of Child Abuse and Neglect Cases: A List of Suggested Reforms* (2003).
- <sup>134</sup> As Dr. David Arredondo has stated: "There are issues more fundamental than legal requirements regarding the contact between a child and her parents from whom she has been separated. These issues center on basic humaneness and carefulness to avoid causing unnecessary pain and harming children who have already been injured or neglected by adults on whom they have previously relied." Conversation between author and David Arredondo, M.D., Medical Director of the Office of Child Development, Neuropsychiatry, and Mental Health.