

CAREGIVERS AND THE COURTS:
**Improving Court Decisions Affecting Children in Foster
Care**

Submitted to the National Center for Youth Law
and the
David and Lucile Packard Foundation

January 2002

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The preparation of these materials was financially assisted through a grant from the National Center for Youth Law with funding from the David and Lucile Packard Foundation. The views expressed in this publication do not necessarily represent the views of the Judicial Council of California, the Administrative Office of the Courts, or the funder. Permission is granted to nonprofit institutions to reproduce and distribute for educational purposes if the copies credit the Administrative Office of the Courts and the Center for Families, Children & the Courts.

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ACKNOWLEDGMENTS

The research team would like to thank the following juvenile court judges for their interest in promoting research to improve court decisions for children in foster care and for their assistance in helping this project come to fruition in their respective counties: Judge Susan D. Huguernor, San Diego County; Judge Donna Hitchens, San Francisco County; Judge Leonard P. Edwards, Santa Clara County; and Judge Arnold D. Rosenfield, Sonoma County. We also thank Commissioner Carla Bonilla, Sonoma County.

In addition, this project could not have been completed without the assistance of attorneys, community college and social services agency staff, and foster parent association officers who were instrumental in the recruitment of focus group participants and who arranged for the facilities at which the focus groups were held. These include Nory Behana, Patricia Boles, Yvonne Campbell, and Ana España in San Diego County; Sylvia Buford, Leona Hunter, Gary Freuhoff, Eugene Clemons, and David Donner in San Francisco County; Denise Marchu, Mary Jane Smith, Mary Jo Nakashima, Gilbert Murrillo, Michael Clark, and Judy Van Elderen in Santa Clara County; and Stephanie Hager, Deborah Loveless, Tara Harvey, Marian Deeds, and Carol Bauer in Sonoma County.

Thanks go also to the court administrators and clerks in the four counties, who ensured that project staff had access to case files in a timely manner. These are Caroline Rodley and Shannon Miller in San Diego County, Linda Gorham in San Francisco County; Toni Gales in Santa Clara County, and Jackie Mitchell in Sonoma County.

Special thanks go to the many foster parents, social workers, attorneys, and juvenile court judges, commissioners, and referees who participated in focus groups and individual interviews. The gift of their time and their honest opinions was invaluable. Finally, the research team would like to gratefully acknowledge the 15 foster parents who invited us into their homes and allowed us to observe them in court over the past year. They are to be commended not only for the essential work they do every day as caregivers but also for their desire to help improve outcomes for children in care by sharing their stories.

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EXECUTIVE SUMMARY

This report presents findings from a collaborative project of the Center for Families, Children & the Courts (CFCC), Administrative Office of the Courts, and the National Center for Youth Law (NCYL). CFCC and NCYL conducted this research study for the David and Lucile Packard Foundation in order to better understand how training caregivers within the child welfare system (i.e., foster parents, foster-adopt parents, and kin caregivers) impacts caregiver participation in juvenile court hearings and outcomes for children in care.

The 1997 passage of the federal Adoption and Safe Families Act (ASFA) greatly expanded opportunities throughout the country for foster parents and relatives caring for dependent children to participate in juvenile court hearings regarding the children in their homes. As a requirement of receiving federal foster care funds, ASFA requires that states provide foster parents, including foster-adopt parents and kin caregivers, with notice and an opportunity to be heard in any review or hearing to be held with respect to the child in their care. In California, caregivers may attend all hearings or submit information to the court in writing. California law already required that caregivers receive timely notice of review hearings, but the passage of ASFA placed this issue under increased scrutiny within the state.

The primary purpose of this study was to examine how training in the dependency court process affects caregivers' knowledge and attitudes about participating in court hearings and the likelihood that they will participate. In addition, the study began to explore in a qualitative way what factors determine how information from caregivers is or could be used in decision making, and what effects might caregiver participation have on the well being of children in care.

Methods

Between October 2000 and March 2001, a sample of 205 caregivers in five California counties and at the annual state foster parent association conference received training in the dependency court process and their rights and

responsibilities within that process.¹ These caregivers were assessed before and after the training to determine the impacts of training on attitudes and knowledge about the court process. A subset of 61 of these caregivers was recontacted by telephone six months after training to assess knowledge retention and the impact of the training on court participation. Additional caregivers in four counties were interviewed in focused group discussions to explore their experiences in court, their relationships with other system participants (birth parents, caseworkers, and attorneys), and the process of sharing information about children in care. Focus groups of social workers and attorneys were also held to explore their perceptions of the value of caregiver input for case planning and their perspectives on the pros and cons of caregiver involvement in court. Eleven judicial officers (judges, commissioners, and referees) were interviewed at length to better understand the role of caregiver information in judicial decision making. Finally, eight caregiver families were interviewed in depth about their experiences in court, and they were observed over the course of nine months during their participation in court, in order to develop a more detailed understanding of how caregiver participation may or may not improve court decisions affecting children in foster care.

It is important to note that the caregivers who attended training were a self-selected sample of individuals who received information about the training and who attended voluntarily. Thus they cannot be considered representative of all caregivers in the counties studied or of caregivers overall. FFA families, in particular, were underrepresented in the study sample. In addition, the caregivers contacted by telephone for the follow-up survey were a relatively small subset (30 percent) of the trainees. Still, the very large differences in knowledge pre- and post-training, and the clear retention of knowledge over the six months after training, among the subjects that were surveyed suggests very strongly that these caregivers learned what they were taught and they retained that knowledge over time.

The remainder of the findings presented in this report are, of course, qualitative, and thus cannot be assumed to be representative of caregivers, social workers, attorneys, or judges in general. Many of the social workers and attorneys

¹ The four core counties for the project were San Diego, San Francisco, Santa Clara, and Sonoma, and all of the telephone surveys, focus groups, judicial interviews, and case studies were conducted in these four counties. However, 31 subjects from Santa Cruz County or the state foster parent conference held in October 2000 were included in the sample for the pre- and post-training assessment in order to increase the sample size.

appeared to be guarded in their comments during the focus groups. The caregivers, on the other hand, were remarkably candid in their comments and observations. The case study participants, in particular, were consistently open and willing to discuss almost any aspect of their foster care and court experiences. As much as possible, the researchers relied on actual quotes from interview participants to illustrate their views and bring their experiences to life. Thus, although the results cannot be generalized to a larger population, they do richly illustrate a range of experiences and views of court participants, and they raise important questions for future research and policymaking.

This study represents an important first step in beginning to understand how and why caregivers participate in the court process and what are the impacts of that participation. As is typical of other exploratory studies, the findings presented here cannot be generalized to definitive conclusions about when and how caregivers should appear in court. However, the results do suggest that many caregivers want to and will attend court if given the opportunity and support to do so, that such participation certainly affects caregivers' sense of efficacy and involvement, and that it can affect judicial decision making and, ultimately, the welfare of children.

Findings

Caregivers' Knowledge, Attitudes, and Participation in Court

Since the mid-1990s, written notices of court hearings have been required by law to be provided to caregivers. Despite the law, however, one-third of this sample of foster care providers said they had not received any written notices of court hearings during the past two years. Still, more than half had attended court during that time period, and those who did generally saw it as a positive experience. These caregivers placed a high value on court participation and they were not deterred from attending court by potential barriers such as time or cost. Those who went to court said they did so to show their dedication to the child and to give and receive information. The follow-up survey of a subsample of training participants found that 40 percent of those who had not gone to court in the past did go to court in the six months after the training, suggesting that the training may have encouraged them to do so.

Caregivers who attended training were quite knowledgeable about their rights to receive notice and be heard, and about what types of information they should provide to and receive from the court. Nevertheless, the training produced significant increases (9 to 18 percentage points) in knowledge in these areas.

The areas in which caregivers were less knowledgeable included aspects of *de facto* parent status, issues regarding education and medical care that applied to school age and older children, and specific aspects of courtroom procedures such as how much time they might be given to speak and what parties have access to information submitted by caregivers.

The training resulted in very large increases (28 to 51 percentage points) in knowledge in these areas. Retention of knowledge six months after the training was very high, with the proportion of caregivers answering correctly for each question surveyed ranging from 80 percent to 97 percent. The training reinforced the perception among caregivers that their presence in court is important and beneficial for children in care. Paralleling the significant increases in actual knowledge that occurred as a result of training, the training also increased caregivers' self-perceptions that they were knowledgeable about the court process and it increased their confidence in attending court. Positive attitude changes remained stable over the six-month period following the training.

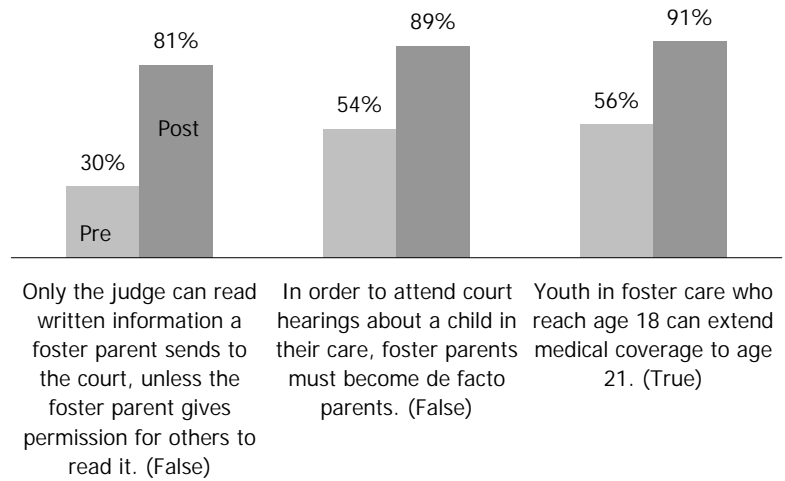


Figure 1. Percentage of Correct Answers on Selected Knowledge Points

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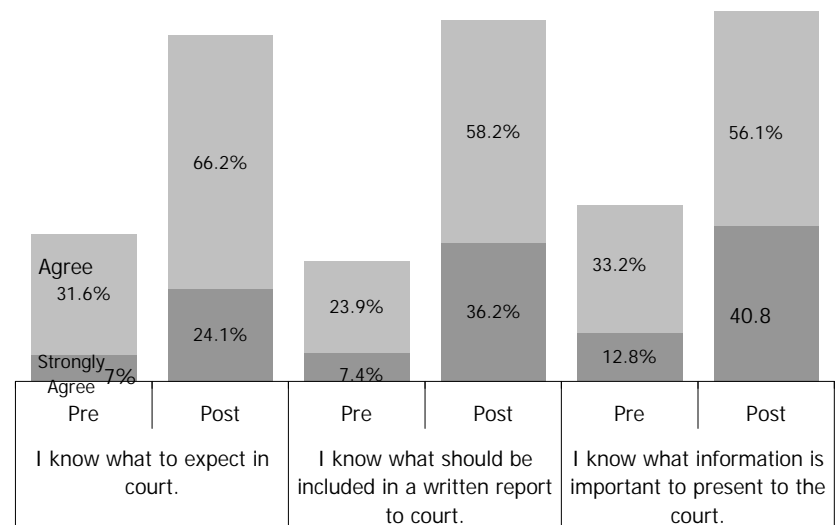


Figure 2. Selected Attitudes About Appearing in Court

Caregiver Focus Groups

The caregivers interviewed perceived a serious imbalance in the way information about foster children is disseminated. They saw themselves as being far more knowledgeable than attorneys and social workers about the children in their care but having the least access to information about their children's cases. In addition, although they very much wanted to be a part of the case planning team, they felt that their expertise often was ignored or contradicted in case planning. Their decisions to attend court appeared, for the most part, to be reactions to perceived problems. That is, they went to court because, in their opinion, they were not receiving the information they believed should be forthcoming, their foster children were not receiving the services they thought they should be receiving, or the feedback they provided was not being incorporated into case planning.

Caregiver Case Studies

Caregivers interviewed for the eight case studies said they attended court for a variety of reasons—to stay informed about the case, to make certain that correct information was being presented to the court, and to show concern and support for the child. Underlying six of the eight cases were perceived communication problems with social workers, that is, that social workers either were not providing caregivers with enough or correct information about their children's cases, that they were not utilizing the information caregivers provided to them in their reports to the court, or in three cases that they were providing false information to the court.

Once caregivers began attending court, they typically attended all of the hearings that occurred for their children's cases—ranging from 2 to 10 hearings for each caregiver family over the course of the nine months of this project. In four cases, only one caregiver attended court because the other one needed to go to work or stay home to care for the children. Waiting times for hearings were long, lasting anywhere from one to four hours, and several times cases were continued for procedural reasons—such as lack of notice or improper notice to birth parents—that could have been avoided. In the courtroom, caregivers were usually, but not always, announced to the court by the court officer, and they typically sat at the back of the room in the observers' section or in the jury box. Judges usually nodded to them or said good morning but did not acknowledge them in any other

way. Only in one case did the judge routinely ask the foster parent if she had anything to say.

In four cases the caregivers submitted statements in writing to the court. All of these statements outlined concerns about behaviors of the birth parents that were detrimental to the children. In one case the caregivers also wrote statements in support of their desire to become legal guardians for their foster children. Several of these caregivers mentioned that the Caregivers and the Courts training had helped them understand how to formulate and submit their statements. These statements were, for the most part, clear, well written, and quite professional in their tone and in their contents.

In five of the eight cases the caregivers applied for and were granted *de facto* parent status in order to be a party to the proceedings; however, in only three of these cases did they actually participate in court (that is, move to the main table with the other parties and receive copies of court reports). In the other two cases, *de facto* parent status seemed to make no difference—the caregivers continued to sit at the back of the courtroom and simply observe the proceedings. Only one *de facto* parent was represented by an attorney (who was appointed by the court). In only three of the eight cases did the caregivers speak in court. One was routinely asked whether she had anything to say, and she spoke at every hearing. Another spoke once to request that hearings for her three granddaughters be held together rather than on separate days (her request was granted). The third one spoke once, very late in the case, to object to a judge’s decision to grant overnight visits to a birth parent (the judge then decided not to grant the visits).

Four of the eight caregivers definitely believe that their participation in court—either in writing or in person—had an impact on the outcomes for children in their care. In the first case the caregivers believe that essential information about the birth parents’ behavior during visitation would not have gotten to the court if they had not written. In addition, the foster father was able to develop a relationship with the birth father and the maternal grandmother while waiting at court, which ultimately resulted in their approval of the child’s adoption. In the second case, the caregiver believes that she provided essential information to social workers about what occurred in court (since they did not attend court), and that her constant contact with the social workers and her presence in court kept social workers focused on the case and “moving things along.” In the third case, the caregiver’s active participation in court appears to have influenced the judge to push for guardianship for one child (and therefore permanence) faster than the

social worker recommended, and to grant guardianship for two other children rather than placement with relatives with whom the children had had no contact. Finally, in the fourth case, the caregivers provided essential information to the court regarding the birth mother's lack of visits with the children that they believe would have never gotten to the court if they had not submitted it.

All but one of the other four caregiver families believe that it was important for them to go to court, even if it did not seem to make a difference in their children's cases. One caregiver who is planning to adopt her foster child believes it was important to attend court to gather as much information as possible about the child's case so that he will have this information when he is older. Another family attended court at the urging of the FFA agency in order to show their concern for the children and their desire to provide them with a permanent home. A third family attended only to observe the proceedings, but now they wish they had retained an attorney and become active participants in the proceedings, as it appears that their foster-adopt children (who have been with them for 20 months) may now be returned to the birth father who has never had custody of them since they were born. Finally, only one caregiver stated that her attendance at court was "basically a waste of time," since she only observed the proceedings and because of the layout of the courtroom sometimes could not even hear what happened in court. She likes the idea of submitting information to the court in writing, however, and she plans to do so with another foster child, now that a form for doing so is available for caregivers.

Social Worker Focus Groups

The social workers interviewed for this study said they rely heavily on caregivers, particularly nonrelative foster parents, for information about children's development, adjustment to placement, medical and educational needs, and visits with birth parents. In general, they believed that caregivers should have access to any information they need in order to care for the child, but they said that such information does not always get to caregivers in writing or in a timely way. There was a consensus among social workers that caregivers should not receive detailed information about birth parents and should not have access to court reports. Workers cited issues of confidentiality but also that caregivers are less likely to support reunification the more they know about the case.

The social workers interviewed generally did not want caregivers involved in case planning, and they were not enthusiastic about having them attend court. The

consensus was that having caregivers in court “complicates things,” “muddies the waters,” and “makes things very messy.” Their primary concerns had to do with controlling the flow of information to the court, avoiding breaching confidentiality of birth parents, and avoiding “surprises” that might result in continuances or problems for the social worker. Several of them noted that there would be no reason for caregivers to come to court unless they had a problem with the worker’s recommendation, that is, “unless their plan is not our plan.” The idea of caregivers attending court appeared to give rise control issues and at a fundamental level seemed very threatening to these social workers.

Attorney Focus Groups

Attorneys differed in their opinions on the issues raised in the focus groups, depending on whether they represented children, parents, or county child welfare agencies. Children’s attorneys tended to rely a great deal on information from caregivers in preparing for court, and many had frequent contact with caregivers. Parents’ attorneys and county counsel, on the other hand, had very little contact with caregivers and very little knowledge of their role in the exchange of information about children. The types of information children’s attorneys found useful from caregivers centered on the development and adjustment of the child and were similar to the sorts of information social workers thought was useful. A number of parents’ attorneys noted that they were the least likely to get information about the children in their cases, and they suggested that there should be a mechanism for them to obtain information about these children from caregivers as well. Attorneys tended to stereotype caregivers depending on whether they were “professional foster parents,” foster-adopt parents, or kin caregivers, and they were more likely to discount information from foster-adopt and kin caregivers—especially information about birth parents.

Attorneys’ opinions about what information caregivers should receive paralleled that of social workers, although children’s attorneys tended to advocate giving more information. Most attorneys agreed that caregivers should receive as much information as possible about the child. Parents’ attorneys and county counsel felt that they should get very little information about birth parents, in order to preserve confidentiality and so as not to discourage them from supporting reunification. Attorneys were mixed in their opinions about whether caregivers were actually getting the information they needed, with children’s attorneys (who were most likely to have contact with caregivers) arguing that they did not receive enough information and did not receive it in a timely way.

While children's attorneys tended to be open to the idea of more caregivers attending court, parents' attorneys and county counsel were not enthusiastic about that possibility. They raised many concerns, including issues of birth parent confidentiality, demands of the court calendar, and caregivers' emotionality, lack of objectivity, and poor understanding of the law. Many argued that caregiver input was important and welcome, and that there should be a more structured way for caregivers to provide information to the court, but that attending court was not the most appropriate route for doing so.

Judicial Officer Interviews

All of the judges who were interviewed for this study said that they definitely want to receive information from caregivers, particularly any information that can humanize the children and help the judge understand their needs and the quality of their day-to-day lives. Many were open to receiving other feedback (for example, information about birth parents) from caregivers, but they said they view this type of information carefully and tend to give less weight to it than comments from social workers and attorneys. While these judges all said they welcome caregivers in court, the majority preferred to receive input from them in writing rather than orally. This was not due to concerns about demands on the court calendar, but rather because all parties to the case would be better prepared by receiving something in writing in advance of hearings. Many judges suggested that caregivers should regularly submit reports to the court, and several argued that these reports should be mandatory.

Judges agreed that caregivers should have access to as much information as possible about the children in their care, but they had mixed views regarding how much information about birth parents and about case plans they should receive. Birth parents' privacy was cited as a concern, along with concerns about negatively influencing caregivers' opinions about or relations with birth parents. Judges commented on the tensions between caregivers and birth parents that can be inherent in concurrent planning, but several also noted that tensions between caregivers and social workers appear to be much more of a problem than the relationships between birth parents and caregivers.

CONCLUSIONS AND RECOMMENDATIONS

The primary purpose of this study was to examine quantitatively how training in the dependency court process affects caregivers' knowledge and attitudes about participating in court and the likelihood that they will participate. It is important to reiterate that the caregivers who attended the Caregivers and the Courts training were a self-selected sample of individuals who received information about the training and who attended voluntarily. Thus they cannot be considered to be representative of all caregivers in the counties studied or of caregivers overall. Still, the findings presented here suggest very strongly that caregivers want to and can learn and retain relevant knowledge that will assist them in participating effectively in court.

In addition to the primary study objective, this study also began to explore what factors determine how information from caregivers is or could be used in decision making regarding children in care, and what effects might caregiver participation have on the well being of those children. These findings are, of course, qualitative, and thus cannot be assumed to be generalizable to all cases, caregivers, social workers, attorneys, or judges. They do, however, richly illustrate some of the experiences and views of court participants, and they raise important questions for future research and policymaking.

This section addresses each of the three major research questions in turn, summarizing the conclusions and making recommendations for changes in court procedures, training of system participants, and further research that can build on what has been learned from this study. An overarching recommendation, however, is that a multidisciplinary panel, or "stakeholders' meeting," consisting of judicial officers, attorneys, social workers, caregivers, and researchers be convened to review the issues raised by this study and recommend next steps. Since many of the concerns raised here require solutions that depend on coordination and cooperation among the various juvenile system participants, such a response seems essential.

How does training in the dependency court process affect caregivers' knowledge and attitudes about court participation and the likelihood that they will participate?

Conclusion: The Caregivers and the Courts training was found among this sample of caregivers to dramatically increase their knowledge of rights to receive notice and be heard and of the legal process, and these gains in knowledge were retained after the training. In addition, several case study participants noted that they continued to refer to the training materials to answer questions that arose as they participated in court. All system participants agreed that caregivers should have more training regarding the courts. A number of issues arose in discussions with system participants that pointed to areas where the training might be expanded.

Recommendation: Because the training was so effective with this particular sample of caregivers, it should be extended to other counties and assessed to determine whether it is as effective with a larger population of caregivers. Items that might be added to the training curriculum include:

- **Identifying the specific hearings that are most appropriate or useful for caregivers to attend;**
- **Describing the role of each system participant (county counsel, birth parents' attorney, child's attorney, CASA, social worker, court liaison, and judicial officer) and clarifying what information each participant typically has and needs regarding a case;**
- **Offering "field trips" to court (in person or video) to familiarize caregivers with what actually occurs in the courtroom;**
- **Outlining the standards for reunification with parents in comparison to the standards to which caregivers are held; and**
- **Defining what the court can and cannot order to happen in specific cases (perhaps using case study examples);**

Specialized training and support may be needed for foster-adopt parents and kin caregivers to address specific issues that arise in these placements, particularly regarding the need to support reunification, developing good working relationships with parents, and resolving problems that may arise during the transition from the caregiver back to the parents.

Conclusion: It appears that participation in training increases the likelihood that caregivers will attend court, although it is not possible to state with certainty because the study did not use a random sample or a control group. When considering the possibility of increased caregiver involvement in the courts, attorneys tended to express concerns about demands on the court calendar, and social workers tended to be concerned that caregivers would come to court with information that the social workers had not been privy to in developing their case plans and court reports. In general, judicial officers welcomed increased caregiver participation in the courtroom, but many of them suggested that it might be most effective for caregivers to provide their input in writing either prior to or as an alternative to appearing in court. Several case study participants also stated a desire for a more structured means for providing written information to the court.

Recommendation: Before taking the training to scale, a panel of judges, attorneys, and social workers, and caregivers should be convened to think through the logistics and implications of large increases in the numbers of caregivers appearing in court. Caregivers should be encouraged to provide information to the court using the new Caregiver Information Form (JV-290), so that they do not arrive at court with information that the parties have not previously been provided with. Training should be offered on how to distribute the form to all parties and how to present the information in court, if desired.

Conclusion: Caregivers are interested in *de facto* parent status, and anecdotal information suggests that training and/or participation in court may increase *de facto* parent applications. Caregivers typically apply for *de facto* parent status because they want access to information about the case, particularly court reports, and they want to be able to be a party to the case. However, the case studies suggest that the extent and type of participation of *de facto* parents varies among jurisdictions and among individual departments within a jurisdiction. Thus some *de facto* parents are active parties to their children's cases and others continue to simply be observers in the back of the courtroom. In one case, the foster parent was told by an attorney she could not be present in the courtroom unless she had *de facto* parent status.

Recommendation: If a primary goal of caregivers in applying for *de facto* parent status is simply to receive copies of court reports, the courts should consider whether more or all of the information in these reports could

routinely be provided to caregivers. In addition, all system participants, not just caregivers need to be trained that caregivers do not need to have *de facto* parent status in order to participate in court. Caregivers should have access to an attorney advisor not affiliated with any cases who could answer general questions regarding court participation.

Conclusion: Participation in the training by families licensed through foster family agencies (FFAs) was low, so it is difficult to determine the effectiveness of the training for these families.

Recommendation: Recruitment for future trainings should focus on obtaining a wider participation from FFA families. Experts familiar with the specific issues of FFA agencies and families should be utilized to develop a better understanding of how to best meet their needs.

What factors determine how the caregiver information is used in decision making?

Conclusion: All the system participants interviewed indicated that they would like to regularly receive information from caregivers about the child's development, needs and adjustment to placement, and whether additional services are warranted. Children's attorneys, in particular, would like to hear from caregivers more than they do currently. In several of the case studies, caregivers' contacts with the children's attorney provided the attorneys with important information about the child and appeared to affect the outcome of the case for the benefit of the child.

Recommendation: Attention should be given to how to strengthen the information exchange between caregivers and children's attorneys. Caregivers should routinely be informed as to who is the child's attorney and how to contact him or her. Social workers should be trained that such contact is appropriate and in the best interests of the child.

Conclusion: System participants sometimes discount information from caregivers because they think caregivers have a bias against birth parents or a "hidden agenda." While caregivers can and do have biases, judges are quick to point out that so do other court participants. Caregivers, on the other hand, often think that

system participants do not recognize and appreciate that their cases involve real children who are harmed by decisions that are made without consideration of their individual situations.

Recommendation: Court participants should have opportunities to better understand the caregivers' perspective and in particular the heightened emotionality that comes from caring for a foster child day-to-day. Courts, dependency court attorneys, and social services agencies should seek out opportunities to interact with caregivers on an informal basis, such as during brown bag lunches or caregiver "field trips" to the court.

Conclusion: Judges cannot utilize caregiver information if they do not they get it. In many cases caregivers came to court but did not speak. Caregivers indicated that they would like to speak in court, but did not wish to interrupt the proceedings at an inappropriate time and did not know when was the appropriate moment to make a comment. Few of the judges who were interviewed routinely asked caregivers who came to court if they had anything to say. In the one case observed where a judge routinely asked for input from the caregiver, that input definitely influenced the judge's decisions, for the benefit of the children.

Recommendation: If a caregiver is in the courtroom, the judge should routinely ask whether she or he has anything to add. In addition, caregivers who plan to attend court should be trained to know the appropriate time in the proceedings to make a comment.

Conclusion: Social workers varied in the extent and type of information they gave to caregivers and that they wanted to receive from them, and they were at times unsure about what information they were actually allowed to give them. They tended to discount input from caregivers that had to do with case planning or negative information about birth parents.

Recommendation: Standards should be developed regarding what information social workers should share with caregivers and how it should be shared. Caregivers should be trained in how to better provide information to social workers, in particular how to provide factual information as opposed to unsubstantiated opinions.

Conclusion: Feedback from both caregivers and social workers suggest that social workers are resistant to the idea of involving caregivers in case planning and in court.

Recommendation: Caregivers who wish to be involved in case planning and in court may benefit from specialized training in how to work with other juvenile system participants. This training would include a greater focus on understanding standards for reunification, what it really means to support reunification, building conflict resolution skills for working with other system participants, and a better understanding of the case planning and court processes. Such training could be provided through the community college system, since the colleges already provide post-licensing training for foster parents. Training could be provided in the context of a certificate program that recognizes caregivers who have completed college training and allows them to accrue college credits. Caregivers who are involved in case planning and in court should be trained in how to report on relevant issues such as the child's educational and medical needs, status assessments of the child's development and emotional state, and birth parent visitation. In developing case planning and court training curricula, an investigation could be made into fields that utilize paraprofessionals in order to develop insights into how caseworkers and caregivers might better work together.

Conclusion: The flow of information between caregivers and social workers varied greatly depending on the particular social worker's views on caregiver involvement in case planning and the nature of the relationship between the individual social worker and caregiver. In addition, social workers sometimes felt threatened by the idea of caregiver participation in court, because such participation can further undermine social workers' already low sense of efficacy in court. Many caregivers believed that social workers did not want them in court, and in several case studies the social workers discouraged the caregivers from attending court.

Recommendation: Attention should be given to the social worker–caregiver relationship and to supporting social workers so that they are more effective in dealing with the courts. Training for social workers (within agencies and at social work schools and training academies) should focus on helping social workers understand the benefits of increased caregiver involvement in the

court, and assisting them in facilitating relationships with caregivers and in effectively using caregivers as a resource for the benefit of the child. In addition, a legal resource manual and legal training designed specifically for social workers should be developed to increase the comfort level of social workers in their dealings with the courts. Finally, social worker training should address the fundamental differences between the adversarial legal model and the collaborative social worker model, so that social workers and attorneys can better benefit from each other's expertise.

What effects does caregiver participation have on the well being of children in care?

Conclusion: Judges say that when they hear from caregivers it humanizes the child for them and makes the child "a real person." This, in and of itself, suggests better outcomes for children. Several judges recounted stories of caregivers providing information in court that changed the course of the case, for the benefit of the child. Many system participants say they prefer to get information from caregivers in writing rather than having them come to court, but often writing about a child and his or her situation does not bring their situation to life in the way that talking about them does.

Recommendation: The caregiver report should be required for all review hearings. Caregivers should be trained in how to complete and present the report in a timely and succinct way, and they should be encouraged to attend court to do so.

Conclusion: The case studies indicated that in some cases caregiver participation in court can have a profound impact on outcomes for children, because such participation provided the court with essential information that otherwise would not have been forthcoming. In other cases, the caregivers attended court simply to observe and to get information about the case. Those caregivers felt they benefited from getting more information, but whether it changed the outcomes of the cases is unclear.

Recommendation: If caregivers attend court, they should be encouraged to speak and truly participate. Real participation will require courts to rethink aspects of the process such as where caregivers are seated, how they are announced, and how other participants respond to their presence.

In conclusion, this study has shown that at least some proportion of caregivers want to attend and participate in court; that through training they can greatly increase their knowledge of and comfort with the court process; and that they can effectively participate in court, both in writing and in person. In addition, interviews with system participants as well as observations of caregivers in court indicate that judges, attorneys, and social workers do utilize information from caregivers in decision making, and that caregiver participation in court can positively affect outcomes for children in foster care. This study has also identified a number of issues that will need to be addressed in order to ensure that information from caregivers is utilized effectively. As the courts continue to move forward with implementing ASFA, increased attention to caregiver participation in court will present some challenges, but ultimately such participation appears to be beneficial for, and in the best interests of, children in foster care.

INTRODUCTION

This report presents findings from a collaborative project of the Center for Families, Children and the Courts (CFCC), Administrative Office of the Courts, and the National Center for Youth Law (NCYL). CFCC and NCYL conducted this research study for the David and Lucile Packard Foundation in order to better understand how training caregivers within the child welfare system (i.e., foster parents, foster-adopt parents, and kin caregivers) impacts caregiver participation in juvenile court hearings and outcomes for children in care.

The 1997 passage of the federal Adoption and Safe Families Act (ASFA) greatly expanded opportunities for foster parents and relatives caring for dependent children throughout the country to participate in juvenile court hearings regarding the children in their homes. As a requirement of receiving federal foster care funds, ASFA requires that States provide foster parents (including pre-adoptive parents and relatives providing care for a child) with notice and an opportunity to be heard in any review or hearing to be held with respect to the child in their care. Under California law, caregivers may attend all hearings or submit information to the court in writing. California law already required that caregivers receive timely notice of review hearings, but the passage of ASFA placed this issue under increased scrutiny in California.

The primary reason for including caregivers in dependency hearings is to facilitate the exchange of information about children that is important for their care. Caregivers are in a unique position to know the nature of the day-to-day care a child requires, and they possess a rich, integrated perspective on the child and his or her development because they routinely talk to pediatricians, teachers, therapists, and other service providers. In the past, such information has been collected and presented to the courts by children's caseworkers and attorneys. As caseworkers and attorneys have become overburdened by larger and more demanding caseloads, caregivers have become an ever more critical resource for assessing, meeting, and monitoring the needs of the children in their care. Caregivers can also receive information at court hearings that will help them carry out court orders more effectively. The direct communication between the caregiver and the court at the time services are ordered allows for immediate planning of the delivery of those services.

Another benefit of caregiver participation in court is that it may result in a better working relationship between parents and caregivers. Such relationships may

serve to support and facilitate reunification of children with their parents or to smooth the transition to an adoptive or guardianship placement when reunification is not possible. Caseworkers and attorneys involved with child welfare cases often cite concerns about hostile relationships between parents and caregivers as a rationale for discouraging them from meeting in court. However, anecdotal information suggests that relationships between caregivers and parents often develop over the course of the visitation process and that these relationships may be more cordial and mutually respectful than is widely believed.

Finally, caregivers' participation in court may increase their satisfaction with their role within the child welfare system. The retention of foster parents is becoming an increasingly important issue for social services agencies, as the gap widens between the number of children in care and the number of homes available. Foster parents cite a lack of access to information about children in their care, and a lack of involvement in decision making regarding those children as issues of dissatisfaction. Thus, promoting caregiver satisfaction via increased involvement in the court process may reinforce caregivers' willingness to continue caring for children within the child welfare system.

To address the issues outlined above, the research study focused on three questions:

1. How does training in the dependency court process affect caregivers' knowledge and attitudes about participating in court hearings and the likelihood that they will participate?
2. What factors determine how the caregiver information is used in decision making?
3. What effects does caregiver participation have on the well-being of children in care?

The primary objective was to quantitatively assess the impact of caregiver training, but the study also provided an opportunity to explore in a qualitative way how information from caregivers is used and how their participation in court might improve the well-being of children in care. To address these questions, a sample of 205 caregivers in five California counties and at a state foster parent conference received training in the dependency court process and their rights and

responsibilities within that process.¹ These caregivers were assessed before and after the training to determine the impacts of training on attitudes and knowledge about the court process, as well as on their participation in court. A subset of 61 of these caregivers was interviewed by telephone six months after training to assess court participation and knowledge retention. Additional caregivers in four counties were interviewed in focused group discussions to explore issues such as satisfaction levels and relationships with other participants (e.g., parents, caseworkers, and attorneys). Focus groups consisting of social workers and of attorneys were also held in the four counties to explore their perspectives on the pros and cons of caregiver involvement in court. Eleven judicial officers were interviewed at length to better understand the role of caregiver information in judicial decision making. Finally, eight caregiver families were interviewed in depth about their experiences in court, and they were observed during their participation in court, in order to develop a more detailed understanding of how caregiver participation may or may not improve court decisions affecting children in foster care.

This study represents an important first step in understanding how and why caregivers participate in the court process and the impacts of that participation. As is typical of other exploratory studies, the findings presented here cannot be generalized to definitive conclusions about when and how caregivers should appear in court. However, the results suggest that many caregivers want to and will attend court if given the opportunity and support to do so, that caregivers learn from training and they retain that knowledge over time, that participation in court affects caregivers' sense of efficacy and involvement, and that it can, in some cases, affect judicial decision making and, ultimately, the welfare of children in foster care.

¹ The four study counties were San Diego, San Francisco, Santa Clara, and Sonoma. An additional 31 caregivers who were trained in Santa Cruz or the annual state foster parent association conference were included only in the pre- and post- training assessments in order to increase the sample size.

REVIEW OF LEGAL REQUIREMENTS

Concerned that children were being returned to unsafe homes or languishing in the foster care system, Congress passed the Adoption and Safe Families Act (ASFA) in November of 1997.² This sweeping child welfare legislation stressed the dual goals of preventing children from being returned to unsafe homes and finding safe, permanent homes for children who cannot return to their families. As a requirement of receiving federal foster care funds, the legislation mandates that states provide caregivers with the opportunity to be heard at juvenile court hearings regarding the children in their homes. Under ASFA, any foster parent (including pre-adoptive parents) and any relative providing care for a child must be given notice and an opportunity to be heard in any review or hearing to be held with respect to the child in their care. It does not require that foster parents, pre-adoptive parents, or relatives providing care for a child be made parties to the juvenile court action.³

The House Committee on Ways and Means Report No. 105-77 provides Congress's underlying rationale for the provision allowing foster parents and relatives to be heard at juvenile court hearings: "Testimony before the Committee indicated that as the child's primary caregivers, foster parents and relatives caring for the child often have information about the child that is relevant to placement proceedings. According to those witnesses, the foster parents and relative caregivers are frequently denied access to both case reviews and hearings. The amendment solves this problem by requiring States to notify foster parents and relatives of the hearing and allow them to be heard."⁴ U.S. Senator Mike Dewine (R-Ohio) provided testimony to the committee that further explained the purpose of the provision allowing caregivers the opportunity to be heard: "To exclude foster parents from the court proceedings may mean silencing the child's most forceful and informed advocates."⁵

The Children's Bureau, Administration on Children, Youth and Families, U.S. Department of Health and Human Services issued regulations implementing ASFA on March 27, 2000. The regulations and comments to the regulations reiterated the federal requirement that foster parents, pre-adoptive parents, and

² Adoption and Safe Families Act (ASFA), Pub.L.No. 105-89, (Nov.19, 1997), 111 Stat. 2115 (codified as amended in scattered sections of 42 U.S.C.).

³ 42 U.S.C. § 675(5)(G).

⁴ H.R. Rep. No. 105-77, 1st Sess. (1997) p. 14.

⁵ Hearings before House Com. On Ways and Means, Subcom. on Human Resources on H.R. 867, 105th Cong., 1st Sess. (1997).

relative caregivers be afforded notice and an opportunity to be heard; however, the comments to the regulations clarified that the federal statute does not confer a right to appear in person at the review or hearing. A state may meet the requirement as the state sees fit, such as by notification to caregivers that they have an opportunity to attend the review or hearing, or notification that they can provide written input for consideration at the review or hearing.⁶

In order to ensure compliance with federal mandates and maintain accountability within the child welfare system, federal regulations require a review of each state's conformity with its state plan under Title IV-B and Title IV-E. States are required to submit a Child and Family Services Review Statewide Assessment Instrument to federal reviewers prior to the Child and Family Services Reviews to be held in each state. The assessment instrument includes requests for data related to each state's case review system. Each state is asked to provide any data available to it discussing how the state meets the requirement to provide foster parents, pre-adoptive parents, and relative caregivers of children in foster care with notice and an opportunity to be heard in any review or hearing to be held with respect to the child in their care.⁷ In addition, each state is asked to provide any available data on the effectiveness of the state's training of current and prospective foster and adoptive families in addressing the skills and knowledge base needed to carry out their duties.⁸

California's Welfare and Institutions Code also addresses participation by caregivers in juvenile court hearings. The juvenile court must review the cases of all children placed in foster or relative care at least once every six months. Under California law, the child's foster parents or relative caregivers must be given written notice of review hearings at least 15 days before the date of the hearing. The notice must state that the caregivers may attend all hearings or submit information to the court in writing. At least 10 days before the hearing, the social worker must provide the caregivers with a summary of his or her recommendations to the court.⁹

⁶ The appropriate HHS regulation, 45 C.F.R. part 1356.21(o) (2000), provides that "[t]he State must provide the foster parents(s) of a child and any pre-adoptive parent or relative providing care for a child with timely notice of and an opportunity to be heard in permanency and six-month periodic reviews held with respect to the child during the time the child is in the care of such foster parents, pre-adoptive parent, or relative caregiver. Notice of and an opportunity to be heard does not include the right to standing as a party to the case."

⁷ Title IV-E Foster Care Eligibility Reviews and Child and Family Services State Plan Reviews, 45 C.F.R. part 1355.33(b) (2000); Child and Family Services Reviews Statewide Assessment (August 2000), p.7.

⁸ Child and Family Services Reviews Statewide Assessment (August 2000), p.8.

⁹ Welf. & Inst. Code, § 366.21, (b) & (c); Cal. Rules of Court, rule 1460(b)(2) and (c)(2), 1461(b), 1462(a), and 1466(a).

In order to assist caregivers who choose to provide information for the court decision making process, the Judicial Council of California approved an official court form on October 26, 2001, for optional use by foster parents and relative caregivers. This *Caregiver Information Form (JV-290)* (See pages 27-28) is intended to give caregivers the option of utilizing a structured format to present information about children's progress and needs to the court. Caregivers in California also have the option of attending juvenile court review and permanency hearings.

In addition to written notice of juvenile court proceedings, child welfare agencies in California are required to provide caregivers with health and education information about the children in their care. Agencies must provide caregivers with children's health and education information or "passports" as soon as possible, but no later than 30 days after the initial placement of a child in foster care. For each subsequent placement, the agency must provide caregivers with the information within 48 hours.¹⁰ The child's caregiver is responsible for obtaining and maintaining accurate and thorough information from physicians and educators for the child's passport during the time that the child is in the caregiver's care. On each required visit, the social worker must ask the caregiver whether there is any new information that should be added to the child's health and education passport.¹¹

Child welfare agencies may also disclose health and education information to prospective caregivers prior to placement of a child if the agency intends to place the child with the caregiver and the caregiver is willing to adopt the child, and the prospective caregiver has an approved adoption home study, a foster family home license, certification by a licensed foster family agency, or is a relative approved for placement. The agency may also disclose the child's placement history or underlying source documents that are provided to adoptive parents, including the medical background of the child and the child's biological parents and diagnostic information about the child, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life.¹²

¹⁰ *Id.*, § 16010(c).

¹¹ *Id.*, § 16010(e).

¹² *Id.* § 16010(d) (added by Stats. 2001, ch. 353 (A.B. 538), § 5).

In addition, social workers responsible for placing children out-of-home in California are required to provide caregivers with any available background information, including, but not limited to, the child's educational, medical, placement, family, and behavioral histories. Caregivers must also be provided with information about any known or suspected dangerous behavior of the child being placed.¹³

Community care licensing regulations also require foster parents to request from the agency, at the time of placement, a "needs and services plan" for the child. The document must contain, at a minimum, the child's name, age, physical limitations, history of infections or contagious diseases, and history of medical, emotional, behavioral, and physical problems; the child's capability to handle his or her own cash resources; and the child's current service needs related to these areas. The agency must also provide any applicable needs appraisal for the child and a plan for providing services to meet the child's individual needs. In the event that the foster parent is not given the information, the foster parent must make telephone and/or written requests for the information. If the information is not received within 15 calendar days, the foster parent must obtain an assessment of the child's current service needs from other sources.¹⁴

In summary, both federal and California statutes require that caregivers receive notice of juvenile court hearings and be given an opportunity to be heard in court. Nevertheless, no systematic training in dependency court process and procedure has been made available in the past to caregivers in California on a statewide basis. In order to fully implement the law, additional efforts are needed to inform caregivers of their right to be heard in court and training is needed to prepare them to participate effectively in the juvenile court process.

¹³ Child Welfare Services Program, Manual of Policies and Procedures, 31-405(p), (q).

¹⁴ Community Care Licensing Division, Manual of Policies and Procedures, Title 22, Division 6, Chapter 7.5, section 87068.2.

| | |
|--|----------------------------------|
| <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:</p> | <p><i>FOR COURT USE ONLY</i></p> |
| <p>CASE NUMBER:</p> | |
| <p>CAREGIVER INFORMATION FORM</p> | |

To the foster parent or relative caregiver of the child: You may submit written information to the court or to the child's social worker, or you may attend review hearings. This optional form may assist you in providing written information to the court. Please type or print clearly in ink and submit the form well in advance of the hearing. Be aware that other individuals involved in the case have access to this information.

1. Child's name: _____
 Child's date of birth: _____ Child's age: _____

2. Name of caregiver: _____
 Address (confidential): _____ Phone no.: _____
 Type of caregiver: Foster parent Relative Other (*specify*): _____

3. The child has been living in my home for _____ years _____ months.

4. **Current Status of Child's Medical / Dental / General Physical and Emotional Health**
 There is no new or additional information since the last court hearing.
 There is new or additional information since the last court hearing (*do not include the names of doctors*): _____

5. **Current Status of Child's Education**
 There is no new or additional information since the last court hearing.
 There is new or additional information since the last court hearing (*do not include the names of the schools*): _____

6. a. The child is is not a special education student.
 b. If the child is a special education student, please also state the date of the last Individual Education Plan (IEP): _____

7. **Current Status of Child's Adjustment to Living Arrangement**
 There is no new or additional information since the last court hearing.
 There is new or additional information since the last court hearing: _____

| | |
|--|--------------|
| NAME OF CAREGIVER: NAME OF CHILD: | CASE NUMBER: |
|--|--------------|

8. Current Status of Child's Social Skills / Peer Relationships

- There is no new or additional information since the last court hearing.
- There is new or additional information since the last court hearing:

9. Current Status of Child's Special Interests / Activities

- There is no new or additional information since the last court hearing.
- There is new or additional information since the last court hearing:

10. Other Helpful Information

- There is no new or additional information since the last court hearing.
- There is new or additional information since the last court hearing:

If you need more space to respond to any section above, please check this box and attach additional pages.
Number of pages attached (*specify*): _____

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF CAREGIVER)

REVIEW OF THE LITERATURE

Because the federal legislation expanding caregivers' ability to participate in court (the Adoption and Safe Families Act of 1997) is fairly recent, little in the literature specifically addresses the process and impacts of such participation. However, a related issue has received increased attention over the past decade, that is, the growing gap between the number of children in care and the number of caregiver homes available for them. As researchers begin to look more closely at the issue of foster parent recruitment and retention, caregiver participation in case planning and in the courts is certain to come under increased scrutiny. In addition, the increase in the number and proportion of kin caregivers over the past two decades has introduced many new issues regarding caregiver involvement in case planning as well as the relationships between caregivers, birth parents, and social services agencies. Of particular importance to the judicial system is how caregiver dissatisfaction may manifest itself in the legal process for children in foster care.

Foster Parent Recruitment and Retention

The Annie E. Casey Foundation (2001) reports that the number of children removed from their homes due to abuse or neglect has doubled over the past two decades, increasing from 260,000 in 1980 to 550,000 in 2000. This dramatic increase in entries into care has been accompanied by a decline in the number of available foster homes. The foundation estimates that fewer than 50 percent of children now entering care can be placed in family foster homes, and the lack of available homes is forcing more and younger children into group homes or onto already overburdened relatives.

Traditionally, family foster care has taken place among families with "stay at home" mothers. Thus, to a certain extent the decline in available foster homes reflects changes in family demographics, including the increase in the number of married women who work outside the home and the increasing proportion of single parent families in the population (Sanchirico, Lau, Jablonka, and Russell, 1998). This suggests the need for additional supports (e.g., child care subsidies, respite care, and assistance with transportation) that would allow families without a parent at home full time to continue to foster children.

Another issue is the ability of social service agencies to retain the foster families they do have. Choice, Deichert, Montgomery, & Austin (2000) note that about 80 percent of foster parents who leave the foster care system do so voluntarily. The authors do not specify whether these foster parents work with county agencies or foster family agencies (FFAs); however, anecdotal evidence from this study

suggests that FFA families are more satisfied with their foster care experience than are county-licensed caregivers. In addition, a recent study of the privatization of foster care services in Kansas found that foster parents were more satisfied with their experience as foster parents with the private agency than they had been previously with the public agency (Friesen, 2001).

Reasons for Caregivers' Dissatisfaction

A number of studies have identified reasons for foster parents' dissatisfaction with their experience as caregivers. These include (1) a perceived lack of responsiveness, communication, and support from foster care agencies; (2) inadequate training and a lack of respite care; (3) a sense of being undervalued by social workers; and (4) an unmet desire for personal involvement in service planning and decision making and for greater access to information about the cases of the children in their care (Choice et al., 2000; Sanchirico et al., 1998; Anderson, 1988; Chamberlain, Morleand, & Reid, 1992).

Another aspect of dissatisfaction appears to be a problem with role ambiguity. The philosophy of concurrent planning requires foster parents to commit completely to children by agreeing to adopt them should they become available for adoption, while simultaneously supporting reunification and in some cases supervising visitations with birth parents (Katz, Robinson, & Spoonemore, 1994). The caregivers' role in the foster care system has evolved into one in which demands and requirements are high, but incentives such as support, responsiveness, and involvement in decision making are minimal.¹⁵

Finally, there appear to be many problems inherent in the relationship between caregivers and social services agencies that contribute to foster parent dissatisfaction. Most of these problems center on the flow (or lack thereof) of information between the agency and the caregiver. Caregivers are frustrated not only by their inability to *provide* relevant information for case planning, but also by the perception that they are not *receiving* necessary information (both general and case-specific). For example, a statewide study that examined retention rates among foster parents in Iowa found that foster parents "perceive that they are working under an information deficit." One-fourth of these caregivers noted that they never or rarely received basic information about children in their care (e.g., medical information) that was specified in their foster parents' handbook (Iowa Foster and Adoptive Parents Association, 2000). On a more general note, Choice et al. (2000) found that the foster parents they interviewed were "very frustrated

¹⁵ Other factors such as foster care payment levels and the personal beliefs and characteristics of caregivers have also been cited as influential in caregivers' decisions to continue fostering. However, this review focuses on those aspects that are relevant to caregiver participation in court.

that they could not understand the child welfare and court processes,” and the authors recommended enhanced training for caregivers in this area.

Caregivers’ Role in Case Planning

The idea that caregivers should be involved in case planning was popularized by the permanency planning movement of the 1970s and has become an integral part of the philosophy advocated by child welfare professionals and administrators (Sanchirico et al., 1998). Foster parents themselves appear to welcome the possibility of active involvement in service planning and other decision making activities. This desire arises from the belief that because of their day-to-day interactions with the child, they know more about a particular child’s needs and challenges than a social worker can possibly know. In addition, philosophical and legislative changes over the past few decades have fundamentally changed the way foster parents are asked to view their foster children. In the past, they were warned not to become too attached to children in their care, and they were often required to sign a statement that they would not attempt to adopt a child that was placed with them. Now, however, attachments between caregivers and foster children, especially young children, are encouraged, because such attachments are theorized to support healthy attachments in the future. Many foster placements are now “concurrent homes,” in which the foster parents have agreed to adopt the child should reunification not occur (Edelstein, Burge, and Waterman, 2001). In addition, the past two decades have seen a tremendous growth in the number of kin caregiver families, who are looking after children who are related to them (Testa and Rolock, 1999; Beeman and Boisen, 1999). This means that caregivers today are much more likely to be emotionally invested in the outcomes for their children, to want to have a say in those outcomes, and to experience severe grief when children leave their homes.

In an empirical examination of the impact on job satisfaction of foster parent involvement in service planning, current and former foster parents completed a survey that measured satisfaction as a foster parent in five areas of service planning. Four factors were shown to be highly correlated with higher job satisfaction among caregivers: a high level of involvement in planning, the foster parent self-identifying as part of the service planning team, having received pre-service training in how to be part of the service planning process, and having in-person contact with the caseworker (Sanchirico et al., 1998). Similarly, Friesen (2001) found that the most satisfied foster parents were those who were active members of the case planning team and felt that their opinions were valued. These foster parents believed that by offering insights into the impact that case decisions had on their specific foster children they played a unique and crucial role, and they

were most satisfied when they felt that social workers were responsive to those insights.

Contrary to caregivers' desires and expectations, agencies often exclude them from involvement in the development of the child's service plan, and they further disregard caregivers by making placement decisions or service recommendations without input from them, even though caregivers typically have the most accurate knowledge of the child's current health and mental status. In a study by James Bell Associates (1993), only 52 percent of foster parents reported ever having attended a meeting with agency staff regarding the child in their care. Even fewer foster parents (27 percent) had ever attended a formal administrative meeting such as a court hearing. Anderson (1988) found that foster parents often disagree with children's permanent placement plans and are frustrated by the legal process and their perceived lack of input into decision making.

Results from the Iowa survey indicate that 25 percent of foster parents responding planned not to continue as caregivers. Those who were planning to continue fostering had more frequent interactions with the Department of Human Services, felt more strongly that their input regarding the child's care was taken into consideration by caseworkers, and were more likely to believe their work as caregivers was valued and appreciated than were those foster parents who planned to leave. The authors concluded that "foster parents who feel as if they are supported and a part of the professional team are more satisfied with fostering and are more likely to remain fostering" (Iowa Foster and Adoptive Parents Association, 2000).

Another study compared attrition rates among three groups: (1) foster parents who received enhanced training, increased contact with agency staff, and an increased monthly stipend; (2) foster parents who received an increased monthly stipend only; and (3) a control group that received neither training, increased contact, nor an increased stipend. Foster parents in the control group had the highest attrition rate (26 percent) compared to foster parents with increased monthly stipends (14 percent) and foster parents receiving enhanced services, increased staff contact, and an increased monthly stipend (10 percent). Foster parents who received enhanced training and contact "expressed satisfaction, accomplishment and appreciation for being seen as experts who were contributing to the greater good." (Chamberlain et al., 1992).

Wasson and Hess (1989) note that "former foster parents consistently report a lack of agency respect for their knowledge and expertise. This disrespect is reflected in many ways, most notably in agency decisions about children—decisions that are usually made with little or no input from foster parents." The authors blame

much of the problem on a lack of a prevailing philosophy for foster parenting and suggest that few roles have such a lack of clarity. The authors argue that foster parents' true role is to "help assess and satisfy the child's needs in a safe setting," but that typically caseworkers and other members of the planning team do not respect foster parents' knowledge and potential contributions. If foster parents are to be full members of the service planning team, their unique expertise needs to be recognized.

Relationships Between Caregivers and Caseworkers

The relationship between the foster parent and the social worker plays a crucial role in determining the extent to which foster parents are involved in the service planning process and the amount of support offered by the agency. A study of county-licensed foster parents in 10 Bay Area counties found one of the most common reasons that foster parents left the system was due to an unsatisfying relationship with the social worker. Study participants specifically attributed their leaving the foster care system to a lack of responsiveness to their needs and a lack of communication from social workers (Anderson, 1988).

Finn (1994) argues that foster parent dissatisfaction stems from the fact that foster parents (i.e., foster mothers) historically have been viewed as primarily providing a "natural capacity for mothering," which is "a necessary but not sufficient condition for successful foster care." Therefore, professional caseworkers are needed to broker services and develop case plans. She notes that although the social worker may feel overburdened and disempowered, she actually "has considerable power to determine the distribution of information and resources." As a result "the foster mother and the social worker often struggle with this clash of expertise in advocating for the best interests of the child."

In a concept-mapping study regarding needs of foster parents, Brown & Calder (2000) found that foster parents perceive a need for frequent contact, advice, and feedback from child protection staff and that they value a good working relationship with social workers because it offers access to resources, such as equipment, relief help, tutoring for foster children, and assistance for children with special needs. Often, however, the caregiver must work closely with social workers whose morale, attitude, and quality of service to children and foster parents are negatively affected by frequent turnover, overwhelming caseloads, and low salary (Anderson, 1988). In this kind of environment, the relationship between foster parents and social workers can become one of rivalry or hostility rather than cooperation. In addition, caseworkers feel particularly vulnerable when it comes to dealings with the court. They often lack the training and legal expertise to write effective court reports, and they tend to be intimidated by the

court process. In addition, they feel that philosophically and ethically their goals are at odds with those of attorneys, who represent the narrow interests of one client rather than understanding the family situation as a whole (Bermack, 1999). The idea of introducing caregivers into this already stressful environment, therefore, can seem quite unappealing to social workers.

Conclusions

In addition to the expanding involvement of foster parents in the courts, there are several other indications that the role of foster parents is moving further away from that of simply a caretaker and toward a more professional or paraprofessional status. At least one state is currently experimenting with utilizing “professional foster parents,” who are paid an annual salary averaging \$16,000, in addition to their regular monthly foster care payments, and who are equal members of the service planning team (Testa and Rolock, 1999). Foster parents are now enabled by California law to request an educational assessment for a foster child and thus trigger the individualized education program (IEP) process, making them an important player in the education of foster children.¹⁶ Foster parents are being used more and more as child welfare educators, specifically as trainers for caseworkers and caregivers (Wasson and Hess, 1989). Finally, as this review suggests, more and more attention is being paid to more clearly defining the role of foster parents in the case planning and court processes.

It seems clear that caregivers believe that they can make a valuable contribution to service planning and decision making for children in their care. In theory child welfare agencies agree. As Sanchirico et al. (1998) note, however, agencies and foster parents appear to have different notions of what foster parent involvement on the planning team actually means. In a statewide survey in New York, the authors found that the vast majority of agencies considered foster parents to be formal members of the planning team. Only one-fourth of the foster parents surveyed identified themselves as planning team members, however. This discrepancy has important implications for the participation of caregivers in court. First, it suggests that caregivers and social workers may have differing perceptions of what “participation” in court proceedings means. Social workers may be apt to view participation simply as the inclusion of information from caregivers in their reports to the court, while caregivers’ perceptions may more closely parallel the law (which defines foster parent participation as receiving “notice and opportunity to be heard”¹⁷ and being able to “attend the hearing or submit information they

¹⁶ Ed. Code § 56029.

¹⁷ 42 U.S.C. § 675(5)(G).

deem relevant to the court in writing”¹⁸). Second, more and more caregivers may come to see the courtroom as providing an entry into participation in decision making activities that has been previously denied to them within social services agencies. Caregivers who feel they have not had a voice will now be finding one in court. An overarching question for researchers, practitioners, and the courts, then, is how to provide a meaningful opportunity for caregivers to be heard in court that will enhance judicial decision making and ultimately lead to improved outcomes for children in care.

¹⁸ Welf. & Inst. Code, § 366.21(b).

RESEARCH METHODS

This project was conducted in four California counties—San Diego, San Francisco, Santa Clara, and Sonoma. These particular counties were chosen to represent both Northern and Southern California and both urban and rural jurisdictions. More importantly, these counties had an active foster parent association or community college foster and kinship education program that could provide assistance with organizing and publicizing the trainings, and judicial officers who were open to conducting the study and agreed to provide access to courtrooms and case files.¹⁹

The study consisted of a number of research components, both quantitative and qualitative, including (1) training foster parents in the judicial process and assessing the effects of that training; (2) a follow-up telephone survey of the same foster parents to assess knowledge retention and court participation; (3) focused group interviews with child welfare attorneys, social workers, and foster parents; (4) one-on-one interviews with judicial officers; and (5) in-depth case studies of foster parents who attended court. Each of these components is discussed below, along with the limitations of the findings.

Foster Parent Training

Between October 2000 and March 2001, a total of 264 individuals received training in the dependency court process and in caregivers' rights and responsibilities within that process. Although recruitment efforts were aimed at caregivers only, not all attendees were caregivers (i.e., they were also social workers, attorneys, court-appointed special advocates (CASAs), and community college staff). These individuals were therefore eliminated from the study sample. Nor did all attendees complete the pre- and post-training assessments. Of the total attendees, 205 (78 percent) were caregivers who completed both the pre- and post-training assessments and were therefore included in the analysis that follows. Of these, 174 were caregivers from the four study counties. The trainings were very well attended in San Diego and Sonoma Counties. Attendance was more modest in Santa Clara and San Francisco Counties. Therefore, an additional 31 caregivers who were trained in Santa Cruz County and at the state foster parent conference

¹⁹ Two other counties—Marin and Santa Cruz—were originally considered for inclusion in the study. Marin County ultimately was not chosen to participate because of media attention the family court was receiving at the time. Another rural county (Sonoma) was chosen for inclusion instead of Santa Cruz because of higher participation levels at the Sonoma trainings.

during this time period were included in the study in order to increase the study sample size. The distribution of study participants across training locations is shown below.

| Sample Distribution Across Training Locations | | |
|--|-----|------|
| County | n | % |
| San Diego | 74 | 36% |
| Sonoma | 47 | 23% |
| Santa Clara | 29 | 14% |
| San Francisco | 24 | 12% |
| State Conference | 24 | 12% |
| Santa Cruz | 7 | 3% |
| Total | 205 | 100% |

The trainings were held at a variety of locations including hotels, community colleges, recreation centers, and social services agency offices. A total of 10 training sessions were held in the four project counties—four sessions in San Francisco and two in each of the other three counties. The two additional sessions in San Francisco were held to attempt to accommodate foster family agencies (FFAs) and kin caregivers, who were not represented at the first two sessions held.

In order to recruit participants, the project director contacted presidents of foster parent associations, community college directors responsible for foster and kinship care education, and directors of county social services agencies, FFA agencies, and kinship centers. These individuals were told the purpose of the study and were asked for their assistance in finding locations for and publicizing the training sessions. Project staff created fliers describing the training, which could be distributed as written, or modified by agency staff if desired.

Staff at the community colleges, in coordination with county agency staff, were the primary resource for distributing fliers to county-licensed caregivers and for arranging for meeting space. Fliers describing the training were mailed to all licensed foster parents in each study county. To make certain that FFA caregivers were aware of the training, letters of invitation were mailed along with the fliers to all FFA agencies in the project counties. In San Francisco County, because project staff had been informed that FFA caregivers are a substantial proportion of caregivers overall (18 percent), fliers were again faxed to each FFA agency just

prior to the training. Project staff also contacted kinship centers directly and provided them with fliers.

Across all counties, FFA staff were found to be resistant to disseminating information about the training to their caregiver families, and they seemed to be resistant to the idea of their foster families attending training or attending court. FFA staff generally indicated that they believed all information going to the court should go through their social workers rather than by caregivers attending court hearings. Not surprisingly, the proportion of FFA caregivers in the overall study sample is low (8 percent). Three-fourths of the sample consisted of foster parents licensed by county agencies. Kin caregivers were well represented in all of the project counties except Sonoma, and they were 23 percent of the overall study sample. Fost-adopt parents accounted for 15 percent of the sample, and that proportion was fairly consistent across the four study counties. The table below shows the distribution of study participants across the caregiver types. (Note: percentages add up to more than 100 percent because categories are not mutually exclusive.)

| Sample Distribution Across Caregiver Types | | | | | | | | | | | | | | |
|---|------------------|----------|---------------|----------|--------------------|----------|----------------------|----------|-------------------|----------|-------------------------|----------|--------------|----------|
| Caregiver Type | San Diego | | Sonoma | | Santa Clara | | San Francisco | | Santa Cruz | | State Conference | | Total | |
| | n | % | n | % | n | % | n | % | n | % | n | % | n | % |
| County | 48 | 65% | 42 | 89 | 19 | 66% | 15 | 63% | 5 | 71% | 22 | 92% | 151 | 74% |
| FFA | 1 | 1% | 4 | 9% | 7 | 24% | 2 | 8% | 0 | 0% | 2 | 8% | 16 | 8% |
| Kin | 29 | 39% | 3 | 6% | 6 | 21% | 9 | 38% | 0 | 0% | 1 | 4% | 48 | 23% |
| FostAdopt | 10 | 14% | 9 | 19 | 4 | 14% | 2 | 8% | 2 | 29% | 4 | 17% | 31 | 15% |
| Total | 74 | | 47 | | 29 | | 24 | | 7 | | 24 | | 205 | |

Study participants completed a three-hour training entitled “Caregivers and the Courts: Making Your Voice Heard,” which was jointly developed by attorneys at the National Center for Youth Law (NCYL) and the Center for Families, Children & the Courts (CFCC). All the training sessions were conducted by attorneys from one or both of these two organizations. The training covered the following topics:

- Caregivers’ rights to receive notice of hearings and to attend hearings;
- Information and services to which caregivers are entitled;
- Guidelines for participating in court; and
- *De facto* parent status.

Although some training sessions in other counties were held in Spanish, the sessions held in the counties included in this study were all held in English.

Pre- and Post-Training Assessments

Prior to beginning the training, all attendees were asked to complete a three-page, self-administered questionnaire that collected information on their role in the child welfare system (e.g., caregiver, social worker, attorney), and if they were caregivers, their previous attendance at court. The questionnaire also included a survey of attitudes related to court attendance and an assessment of knowledge of caregiver rights and of the court process. The attitudes survey consisted of 20 statements using a 4-point Likert response scale (strongly agree, agree, disagree, strongly disagree). The knowledge survey consisted of 14 True/False statements. Immediately after the training, participants were again asked to complete the attitudes and knowledge portions of the questionnaire. An ID code was used to ensure that responses would be confidential and that pre- and post-assessments could be matched for individual trainees.

Telephone Follow-Up Survey

Caregivers who attended the training were asked to complete a form indicating whether they were willing to be recontacted in six months for a follow-up survey. A total of 130 training participants who completed the pre- and post-training assessments indicated that they were willing to be recontacted. Of these, 31 were determined to be ineligible for the follow-up study because they were not caregivers (i.e., they were social workers or attorneys) or had no current foster placements. Contact by phone was attempted a minimum of four times for the remaining 99 subjects. Of these, 19 caregivers (19 percent) had provided phone numbers that were incorrect or disconnected, 11 (11 percent) did not answer or return messages for any of the four telephone calls, and 8 subjects (8 percent) refused to participate. A total of 61 subjects completed the survey—a 62 percent response rate.

The survey instrument consisted of five main areas: demographics and background information, a brief attitudes survey (a subset of five items from the pre- and post-training assessments), a brief knowledge survey (also a subset of five items from the pre- and post-training assessments), and questions regarding hearing notification and court participation since the training. A standardized introduction script was used to introduce the survey and obtain consent.

Data Entry and Analysis

Data from the pre- and post-training assessments and the follow-up survey were entered into SPSS for Windows, Version 10.0. A coding manual was developed that assigned a variable name to each item in the questionnaires and which documented data entry procedures and decision rules.

Frequency tables and univariate statistics were used to summarize the composition of the study samples and other descriptive variables such as caregivers' reasons for attending court hearings. Data on differences in knowledge pre- and post-training were analyzed for each individual item, and for four knowledge domains (caregivers' rights to receive notice and be heard, information/services to which caregivers are entitled, the court process, and *de facto* parent status). Because the study sample was self-selected rather than selected at random, a normal distribution could not be assumed. Therefore, nonparametric statistical tests were applied. These included paired samples t tests and McNemar's test. Overall mean scores, scores by county and domain, and scores for all individual knowledge items were all found to have significant differences between the pre- and post-training assessments. Retention of knowledge six months following the training was assessed by comparing post-training and follow-up answers for five selected knowledge items, using the paired samples t test. There were no significant differences between the post-training and follow-up scores for four of the five items, indicating that knowledge gained from the training was retained six months later.

Data on differences in attitudes pre- and post-training were analyzed for each individual item, again using nonparametric statistical tests. Significant changes were observed for some but not all attitude items, and these results are reported in the findings section of this report. There were no significant changes in attitudes between the post-training and follow-up assessments, indicating that attitudes regarding court participation remain stable over time.

Focus Groups

In order to further explore and expand upon the findings of the pre- and post-training and follow-up surveys, 22 caregivers were interviewed in four focus group discussions—one in each of the four study counties. The participants were recruited through the foster parent association in three of the counties. In the fourth county, participants were recruited by the community college foster and kinship care education director. The project director also requested these individuals to assist in arranging locations for the interviews. Caregiver focus group interviews

were held at caregiver centers in two counties, the local community college in one county, and at a caregiver's home in the fourth county. These caregivers were predominantly Caucasian women, licensed as foster care providers by county agencies. They varied widely in the length of time they had been foster parents—anywhere from 1 to 35 years. The focus groups were conducted by one or more of the project staff, typically with one person leading the discussion and one taking notes. Participants were informed that anything they said would be confidential, and neither their names nor any other identifying information would be used in reporting the results. Two of the sessions were also audiotaped, after obtaining the participants' permission to do so. A written discussion guide was developed to facilitate the group discussions, which centered on (1) exploring the relationships between caregivers and other participants in court, namely attorneys, social workers, and birth parents; (2) the process of giving and receiving information about children in care; and (3) caregivers' experiences in court.

In order to explore social workers' perspectives on caregiver involvement in court, 15 county social workers (11 line workers and 3 supervisors and 1 court officer) were interviewed in four focus group discussions—one in each of the four study counties. The project director contacted the director of child protective services in each county and requested their assistance in recruiting social workers for the groups. The county agencies were also asked to provide the meeting facilities for the groups. Although county staff did not overtly say they did not want to participate, they did not seem to actively promote participation either. As a result, attendance at these groups was fairly low. In addition, some social workers seemed reluctant to participate in the discussions, and many of their comments focused on regulations and standards for practice, rather than on their opinions. Still, some of them were remarkably candid about their experiences with caregivers and with their opinions about caregivers attending court, and it is primarily their comments that are reflected here. The focus groups were conducted by one or more of the project staff, typically with one person leading the discussion and one taking notes. Participants were informed that anything they said would be confidential, and neither their names nor any other identifying information would be used in reporting the results. Several but not all of the sessions were also audiotaped, with the social workers' permission. A written discussion guide was developed to facilitate the group discussions, which focused on the process of giving and receiving information about children in care, and social workers' experiences with and opinions about caregivers attending court.

To assess attorney's perspectives on caregiver involvement in court, 47 dependency court attorneys (25 attorneys for birth parents, 14 county counsels,

and 12 children’s attorneys²⁰) were interviewed in four group discussions—one in each of the four study counties. The project director contacted attorneys for one of the organizations that provides legal representation in each of the study counties for assistance in recruiting participants, and overall turnout was quite high. The groups were held at the local juvenile court or at county counsel offices. In order to raise the comfort level of participants, the project director, who is also an attorney, led these groups. Participants were informed that anything they said would be confidential, and neither their names nor any other identifying information would be used in reporting the results. These group discussions were not audiotaped, since the attorneys did not seem comfortable with being recorded. However, another project staff member took extensive notes. A written discussion guide was developed to facilitate the group discussions, which centered on the process of giving and receiving information about children in care and attorneys’ experiences with and opinions about caregivers attending court. As was the case with the social worker focus groups, many of these attorneys were prone to respond to questions in terms of what was required by law, as opposed to offering their own opinions about what should occur. However, a number of them also were quite forthcoming with strong opinions about the role of caregivers in court and in the child welfare system.

Judicial Officer Interviews

In order to develop a better understanding of judicial decision making in dependency court, and to explore judicial officers’ perspectives on caregiver involvement in court, 11 dependency court judges, commissioners, and referees representing the four study counties were interviewed one-on-one for about one hour each. A written discussion guide was developed to facilitate the interviews. The judges were assured that their comments would be confidential; however, these interviews were conducted by the project director, who personally knew most of these judges prior to the study. This level of familiarity with the researcher appeared to benefit the process, in that judges seemed to be quite comfortable in expressing their opinions. On the other hand, it is possible that their knowing the interviewer in other contexts may have colored their responses. The information collected in these interviews was remarkably consistent, however, despite varying degrees of previous history with the researcher. The interviews centered on the utility of information from caregivers in making decisions about children in care, and on judicial officers’ opinions about caregivers in the courtroom. In order to increase the judges’ comfort level in talking candidly, the

²⁰ San Francisco attorneys were part of a panel system, and thus represented both children and birth parents.

interviews were not audiotaped; however, the researcher took extensive notes, both during and immediately after the interviews.

Foster Parent Case Studies

Case studies were conducted with eight caregiver families across the four study counties in order to develop a more in-depth understanding of why caregivers attend court, what occurs when they do, and what impact court participation may have on outcomes for children in foster care. Caregivers who attended the training were asked to complete a form indicating whether they were interested in participating in a follow-up case study, and if they planned to attend court. Those who expressed an interest in participating were contacted by phone to determine if and when they planned to attend court and to explain the case study process.

The eight case study participants were chosen from among the caregivers who attended court early in the year, so that researchers would be able to observe at least two hearings over the course of the year (since hearings are typically six months apart). In addition, caregivers were chosen so that at least one case would be included in the study that represented each of the following categories: short-term foster care, long-term foster care, kin care, foster-adopt, county foster home, FFA foster home, child under three (“fast track”) and teenaged child (because teens are harder to place and less likely to achieve permanence). Numerous attempts were made to recruit participants that represented a range of ethnicities. However, because the pool of potential participants was fairly small and there was a need to begin the project early in the year, researchers were able to recruit only one Hispanic family, and no African-American families. Thus, seven of the eight case studies are of Caucasian families. In addition, none of the caregivers trained in San Francisco who agreed to participate in the case studies had court hearings during the timeframe for this project. In order to ensure that San Francisco was represented in the case studies, a San Francisco family was included that had received and reviewed the training materials and discussed them with the project director, but had not actually attended the training.

Case study participants were asked to sign a research participation agreement that outlined the case study process and obtained their permission to observe them in court. They were informed in writing that their participation was voluntary and that they could discontinue participation at any time. (None did.) They were also informed that all information they provided would be kept strictly confidential and that participation in the study would not affect their foster care status or the legal status of children in their care.

All case study participants were interviewed at least twice in person (after the first and second court observations), using written discussion guides. The first interviews lasted from one to two hours and focused on obtaining background information and case histories, along with detailed information on caregivers' understanding of the court process, past experiences in court, notification of hearings, and contacts with social workers. These interviews also collected information on the most recent court hearing, including notification, reasons for attending court, barriers to attendance, and the caregivers' impressions of what occurred in court. Finally, caregivers were asked to comment in general on the role of foster parents in the court and in case planning. The second caregivers' interview was brief and focused on their experience in and impressions of the second observed court hearing. Most of the caregivers were also contacted several additional times by telephone to clarify and expand upon questions that arose during the case study process.

Caregivers were observed at a minimum of 2, and as many as 10, court hearings. Project staff met with and obtained permission from the presiding judges before observing in court. A written court observation guide was developed to ensure that consistent information was collected. Observers noted the length of the hearings and identified all individuals that were present. Caregivers' dress, mannerisms, and body language were noted, along with observations of anything they said in court. Observers also noted whether or not the caregiver's presence was acknowledged by the court and what impact, if any, their presence seemed to have on the proceedings.

At least once for every case, researchers waited in the lobby with caregivers in order to get a sense of that experience. In the courtroom, researchers sat at the back of the room and in many cases observed the entire calendar for the morning or afternoon of the particular hearing being observed. This served to provide a larger context for the case study observations. In addition, it appeared that participants in court (particularly attorneys) became less aware of the researchers' presence the more time they spent in the courtroom. In some instances, the researchers' presence appears to have impacted the atmosphere of the proceedings. For example, one caregiver noted that the judge was "more tense" when the researcher was present. In another case, the caregiver described the proceedings as "more structured and precise" when the researcher was there. One child's attorney commented 'You're talking to everyone!' when she observed the caregiver talking with the researcher prior to a hearing. Finally, in one case, the judge moved the case being observed to the top of the calendar because he knew the researcher was present. Although it is impossible to be certain, based on

feedback from caregivers who had attended court without the researchers there, the researchers' presence did not appear to have a major impact on what happened in the courtroom.

A final component of the case study process was a review of the court files for all children in care with these eight caregiver families (15 children in all). A case file review form was developed to capture information on (1) the case history (i.e., when the child came into care and the progression through the legal system); (2) any foster parent involvement or input that appeared in court reports or court orders; and (3) any instances where caregiver involvement impacted or could have impacted outcomes for the child in care. Case files were made available to researchers by the court clerks, and all of the file reviews were completed in the courtroom or in the clerk's offices.

Limitations of the Research

It is important to note that the caregivers who attended training were a self-selected sample of individuals who received information about the training and who attended voluntarily. Thus they cannot be considered representative of all caregivers in the counties studied or of caregivers overall. FFA families, in particular, were underrepresented in the study sample. In addition, the caregivers contacted by telephone for the follow-up survey were a relatively small subset (30 percent) of the trainees. Still, the very large differences in knowledge pre- and post-training, and the clear retention of knowledge over the six months after training among the subjects that were surveyed, suggests very strongly that these caregivers learned what they were taught and they retained that knowledge over time.

The remainder of the findings presented in this report are, of course, qualitative, and thus cannot be assumed to be representative of caregivers, social workers, attorneys, or judges in general. Many of the social workers and attorneys appeared to be guarded in their comments during the focus groups. The caregivers, on the other hand, were remarkably candid in their comments and observations. The case study participants, in particular, were consistently open and willing to discuss almost any aspect of their foster care and court experiences. As much as possible, the researchers relied on actual quotes from interview participants to illustrate their views and bring their experiences to life. Thus, although the results cannot be generalized to a larger population, they do richly illustrate a range of experiences and views of court participants, and they raise important questions for future research and policymaking.

FINDINGS

CAREGIVERS

Sample Characteristics

The study sample for the pre- and post-training assessments consisted of 205 caregivers who attended the training “Caregivers and the Courts: Making Your Voice Heard,” which focused on caregivers rights to receive notice and attend court, foster children’s rights to receive services, and the court process. Eight out of 10 caregivers in the sample were foster parents (the large majority licensed by a county agency), and 2 out of 10 were kin caregivers. Fifteen percent of the caregivers were pre-adoptive families.

| Caregiver Type | n | % ²¹ |
|--------------------|-----|-----------------|
| County foster home | 148 | 73% |
| FFA foster home | 16 | 8% |
| Kin caregiver | 48 | 23% |
| Pre-adoptive home | 31 | 15% |

These families had been providing foster or kin care for anywhere from 1 to 45 years, with the average being 8 years. They provided care for an average of two children per family. About half of the families cared for children under six years old, 38 percent cared for children age six and older, and 13 percent cared for children of all ages.

The sample for the follow-up telephone survey consisted of 61 caregivers, the majority of whom (93 percent) had children placed with them through county agencies. These caregivers were predominantly Caucasian (77 percent). They were fairly well educated, with 63 percent having more than 12 years of education. About half worked outside the home in addition to being foster parents.

Caregivers’ Previous Experiences with the Court

About one-fourth of the caregivers who attended training said they had attended a previous training about the court process within the past two years. Although written notices of court hearings have been required by California law to be sent to

²¹ Percentages add up to more than 100 percent because caregivers could give multiple answers.

caregivers since 1996, only 68 percent of these caregivers said they had received a written notice about a court hearing during the past two years. During the same time period, slightly less than half had received the social worker’s recommendation to the court regarding a child in their care. Slightly more than one-fourth of these caregivers had written a letter or report for the court in the past two years, and more than half had attended court. This relatively high level of participation in court most likely reflects the fact that this was a self-selected sample of caregivers who had an interest in the court process.

| Type of Court Participation | n | % |
|---|----------|----------|
| Attended previous training regarding the courts | 46 | 23% |
| Received written notice of hearing | 140 | 68% |
| Received social worker’s recommendation | 93 | 45% |
| Wrote letter or report to the court | 59 | 29% |
| Attended court | 119 | 58% |

Caregivers who attended court prior to the training expressed a variety of reasons for doing so, including both giving information to the court (49 percent) and getting information about the case (47 percent). But most frequently they said they went to court to show dedication to the child (60 percent). Only about one-fourth had attended court to become *de facto* parents; however, many participants in the training told the trainers that they were interested in finding out more about *de facto* parent status.

| Caregivers’ Reasons for Attending Court | n | % |
|--|----------|----------|
| To show my dedication to the child. | 71 | 60% |
| To give information to the court. | 58 | 49% |
| To learn about the case. | 56 | 47% |
| To answer questions that might be asked. | 45 | 38% |
| Because I was a party to the case. | 37 | 31% |
| To testify, as I was asked to do. | 32 | 27% |
| To request information or services. | 28 | 24% |
| To become a <i>de facto</i> parent. | 28 | 24% |
| To learn about the judge or the courts. | 27 | 23% |
| Other reasons | 12 | 10% |

Caregivers who attended court, by and large, saw it as a positive experience. The majority thought that it was important for the child that they attended, and they found it helpful to go. Less than 10 percent stated that it was not worth the trouble to go to court. The few caregivers (8 percent) who specified other opinions expressed primarily negative views of the experience (e.g., “Not all parties tell the

truth, even the social workers.” “You are run over if not careful.” “Too little real advocacy.” “I was not wanted.”).

| Caregivers’ Experience in Court | n | % |
|---|----------|----------|
| It was important for the child that I went. | 77 | 65% |
| It was helpful to go. | 76 | 64% |
| It was not worth the trouble to go. | 11 | 9% |
| Other | 10 | 8% |

Caregivers who had not attended court did not seem to be deterred by potential barriers such as time or cost. The primary reason for not attending (41 percent) was simply that they saw no reason to go. However, a significant proportion did not know they could attend court (20 percent) or were discouraged from attending (19 percent).

| Caregivers’ Reasons for Not Attending Court | n | percent |
|---|----------|----------------|
| I had no need to go. | 35 | 41% |
| I was never told I could go. | 17 | 20% |
| I had heard that I should not go. | 16 | 19% |
| I had not been told when the hearings would take place. | 8 | 9% |
| It takes too much time. | 5 | 6% |
| It costs too much money. | 1 | 1% |
| Other | 5 | 6% |

Caregivers’ Court Experiences After Training

A subsample of caregivers who attended training were contacted by telephone six months after the training to assess their participation in court since the training. Of these, 80 percent said they had received notices of hearings prior to the training, and 78 percent said they had received notices after the training. These proportions are somewhat higher than the percentage of those attending training that reported receiving notices (68 percent). However, at the training caregivers were asked whether they had received written notices. This difference suggests that some caregivers are learning about court hearings via routes other than the official written notification. Anecdotal evidence from case studies (described later in this report) bears this out. In several cases written notification did not occur or occurred inconsistently, but caregivers routinely found out about hearings through communications with social workers or attorneys.

Caregivers who participated in the follow-up survey were asked about their court attendance both before and after the training. Among those who had attended

court prior to training, 54 percent returned to court again in the six months after the training. More importantly, 40 percent of those who had not been to court previously did go to court in the six months after the training. Although it is not possible to conclude from this finding that attending training caused these caregivers to decide to go to court (for example, they may have attended training precisely because they were planning to attend court in the future), it does indicate that training did not discourage them from attending court and quite possibly encouraged them to do so. Anecdotal evidence from case studies (described later in this report) suggests that training significantly increases caregivers' comfort level with attending court.

Caregivers who attended court were asked whether they had submitted information to the court, either orally or in writing. Among caregivers who attended court, there was not a significant difference between the proportion of those who said they had submitted information to the court prior to training (64 percent) and after the training (52 percent).

The caregivers who did submit information after the training provided descriptions of that information. About half of these statements involved the status or progress of the child (e.g., progress in school, health issues, special education needs, behavioral issues). Examples included:

- "I submitted a lengthy report on the developmental progress of the child."
- "Facts about what was going on with the child. Nonjudgmental information."
- "A letter which included the foster care report, medical information, notes on visitation dates, behavioral and developmental information."
- "I spoke about the educational needs of the child in relation to public school."

Slightly less than one-third of the statements involved information about birth parents—some positive, but mostly negative (e.g., visitation logs, problems with visitation, child's regressive behavior after visitation). Examples included:

- "I told them about the child's behavior before and after visitation, and (negative) information the child told me about the birth mom."
- "(I talked about) my recommendations to the birth parent. I spoke to the birth parents and encouraged mom to continue her progress."

The remainder of the statements involved caregivers' desire to adopt or provide guardianship for a child (11 percent), *de facto* status applications (3 percent), and providing facts that caregivers thought social workers might not mention in court

or that might be in conflict with social workers' recommendations (3 percent). Examples included:

- "I spoke out if something said by the social worker wasn't true."
- "I shared facts that were pertinent to the case that might not be mentioned."
- "If it wasn't for foster parents going to court, vital information would have been lost."

In summary, many of the caregivers who attended training did have previous experiences with the courts. Many had attended court in the past, and those who did generally saw it as a positive experience. This sample of caregivers did not seem to be deterred from attending court by potential barriers such as time or cost. The follow-up survey of a subsample of training participants found that 40 percent of those who had not gone to court in the past did go to court in the six months after the training, suggesting that the training may have encouraged them to do so. Regarding notification of hearings, although many caregivers had received written notices of hearings, a substantial proportion had not, and evidence suggests that caregivers may be finding out about court hearings via routes other than official written notification.

Caregivers' Knowledge of the Court Process

Caregivers' knowledge of the court process was measured pre- and post-training via 14 survey items that encompassed four knowledge domains: (1) caregivers' rights to receive notice and be heard; (2) information and services to which children and caregivers are entitled; (3) participation in court hearings; and (4) caregivers' rights to participation once a child has left their home.

Caregivers came to the training already fairly well informed about the court process and their rights in court. This was to be expected, given that the subjects were a self-selected sample of caregivers who already had enough of an interest in the court process to attend training on the court process. Nevertheless, the training was highly effective in further increasing their level of knowledge. The average number of correct answers to the knowledge questions increased from 9 out of 14 prior to the training to 13 out of 14 after the training, and knowledge levels increased across all four knowledge domains.²² Finally, caregiver knowledge increased significantly for every one of the 14 individual survey items.²³

²² Paired samples t-test (sig. = .00)

²³ McNemar's test (sig. = .00); Wilcoxon signed rank-test (sig. = .00).

Knowledge of Rights to Receive Notice and Be Heard

Caregivers came to the training already fairly knowledgeable about their rights to receive notice and be heard. Prior to training, 8 out of 10 caregivers said they knew that foster parents have a legal right to attend certain hearings and that they should receive timely written notice of hearings. Three-fourths of them knew that they could go to court for purposes other than asking for services, and that social workers are required to inform caregivers of their recommendations prior to hearings. On the other hand, close to half of them believed incorrectly that foster parents must have *de facto* parent status in order to attend hearings involving children in their care. This confusion about, and also interest in, *de facto* parent status arose frequently in focus groups and one-on-one interviews with caregivers.

Knowledge of all of the measured aspects of receiving notice and being heard increased significantly as a result of the training, with 9 out of 10 caregivers responding correctly to these knowledge items on the post-test. The increase in knowledge regarding *de facto* parent status was one of the largest in the survey, with proportion of correct responses increasing from 54 percent to 89 percent as a result of the training.

| Caregivers' Rights to Receive Notice and Be Heard | | | | |
|---|----------------------------|----------|-----------------------------|----------|
| Concept | Correct on Pre-Test | | Correct on Post-Test | |
| | n | % | n | % |
| In California, foster parents have a legal right to attend certain court hearings about the children in their care. (True)* | 171 | 83% | 196 | 96% |
| Foster parents should receive written notice of court hearings at least 15 days before the hearing. (True)* | 163 | 80% | 191 | 93% |
| Before a court hearing, foster parents should be given the recommendation the caseworker will make to the court. (True)* | 154 | 75% | 187 | 91% |
| Foster parents have a right to go to court only to request services for a child. (False)* | 153 | 75% | 181 | 88% |
| In order to attend court hearings about a child in their care, foster parents must become de facto parents. (False)* | 110 | 54% | 182 | 89% |

*Significant difference between pre- and post-test (sig. = .00)

Knowledge Regarding Information and Services to Which Children or Foster Parents Are Entitled

Prior to training caregivers were moderately knowledgeable about their foster children’s entitlement to services. About 8 out of 10 knew that they should approach the social worker first rather than the judge to request services, that they were entitled to medical information about children in their care, and that children in care should have a permanency plan after 12 months. As a result of the training, knowledge about these aspects increased to 9 out of 10 caregivers.

Caregivers were less well informed about their rights to educational histories for children in care, or about the rights of emancipated foster children to extend medical care to age 21. This may be due in part to the fact that 39 percent of these caregivers had children placed with them who were under six years old, and to whom these particular issues do not apply. Correct responses to these two items also increased to nine out of ten caregivers as a result of the training.

| Information and Services to Which Children or Caregivers Are Entitled | | | | |
|---|----------------------------|----------|-----------------------------|----------|
| Concept | Correct on Pre-Test | | Correct on Post-Test | |
| | n | % | n | % |
| If a child needs services, ask the judge first before asking the caseworker. (False)* | 172 | 84% | 191 | 93% |
| Foster parents should have the medical information for any child who has been in care 30 days or more. (True)* | 158 | 77% | 193 | 94% |
| The caseworker should have a “permanency plan” for any child who has been in foster care for 12 months. (True)* | 155 | 76% | 192 | 94% |
| Foster parents have no legal right to the education histories of children in their care. (False)* | 129 | 63% | 187 | 91% |
| Youth in foster care who reach age 18 can extend medical coverage to age 21. (True)* | 114 | 56% | 186 | 91% |

*Significant difference between pre- and post-test (sig. = .00)

Knowledge Regarding Caregivers’ Participation in Court Hearings

Caregivers came to the training with a general idea of the kind of information they should present to the court, but with less understanding of how this should occur, that is, what actually happens in court. This gap in knowledge is reflected in the three knowledge items that address court participation. Eight out of 10 caregivers knew prior to the training that the information that they present should focus on the child’s progress and needs. Only 3 out of 10 had a good sense of how much

time they might have to speak in court or that the information they present is made available to all the parties in the case. Not surprisingly, these two knowledge items showed the largest increase in correct answers between the pre- and post-tests. After the training, 86 percent of caregivers knew how much time they might expect to speak in court, and 81 percent understood that information they provide is made available to all parties in the case.

| Caregiver Participation in Court Hearings | | | | |
|--|----------------------------|----------|-----------------------------|----------|
| Concept | Correct on Pre-Test | | Correct on Post-Test | |
| | n | % | n | % |
| The information the foster parent presents to the court should describe the child’s progress and needs. (True)* | 172 | 84% | 195 | 95% |
| A foster parent can expect to have about 20 minutes to talk in court. (False)* | 72 | 35% | 177 | 86% |
| Only the judge can read written information a foster parent sends to the court unless the foster parent gives permission for others to read it. (False)* | 62 | 30% | 165 | 81% |

*Significant difference between pre- and post-test (sig. = .00)

Knowledge Regarding Caregivers’ Rights to Participation Once a Child Has Left Their Home

Prior to training, less than half of caregivers knew that if they obtained *de facto* parent status they could continue to participate in hearings for a child who had left their home. The proportion that answered correctly increased to 84 percent as a result of the training.

| Caregivers’ Rights to Participation Once a Child Has Left Their Home | | | | |
|---|-----------------|----------|------------------|----------|
| Concept | Pre-Test | | Post-Test | |
| | n | % | n | % |
| As a foster parent, I can participate in a court hearing for a child who has left my home if I am the child’s <i>de facto</i> parent. (True)* | 94 | 46% | 172 | 84% |

*Significant difference between pre- and post-test (sig. = .00)

Caregivers’ Retention of Knowledge

A subsample of 61 caregivers who attended training were contacted by telephone six months after the training to assess their retention of information learned in the training. Five knowledge items representing the four domains were surveyed. For

four of the items, there was no significant change between the post-test and the follow-up survey. There was a slight but significant decrease in the proportion of caregivers who knew that they do not have to be *de facto* parents in order to attend court.²⁴ Still, 82 percent of respondents answered this item correctly six months after the training, suggesting a high level of knowledge retention.

| Caregivers' Retention of Knowledge | | |
|---|------------------|-------------------|
| Concept | % Correct | |
| | Post-Test | Six Months |
| In California, foster parents have a legal right to attend certain court hearings about the children in their care. (True) | 96% | 93% |
| The information the foster parent presents to the court should describe the child's progress and needs. (True) | 95% | 97% |
| Foster parents should receive written notice of court hearings at least 15 days before the hearing. (True) | 93% | 97% |
| In order to attend court hearings about a child in their care, foster parents must become <i>de facto</i> parents. (False)* | 89% | 82% |
| A foster parent can expect to have about 20 minutes to talk in court. (False) | 86% | 80% |

*Significant difference between pre- and post-test (sig. = .00)

In summary, caregivers who attended training were generally quite knowledgeable about their rights to receive notice and be heard, and about what types of information they should provide to and receive from the court. Nevertheless, the training produced significant increases (9 to 18 percentage points) in knowledge in these areas. The areas in which caregivers were less knowledgeable included aspects of *de facto* parent status, issues regarding education and medical care that applied to school age and older children, and specific aspects of courtroom procedures. The training resulted in very large increases (28–51 percentage points) in knowledge in these areas. After training, the proportion of caregivers answering correctly for each question ranged from 84 percent to 96 percent, compared to a range of 30 percent to 96 percent prior to training. Retention of knowledge six months after the training was very high, with those answering correctly ranging from 80 percent to 97 percent.

Caregivers' Attitudes

Caregivers' attitudes about attending court and the court process were measured pre- and post-training by 20 agree-disagree items that encompassed five areas: (1)

²⁴ Paired samples t-test (sig. = .00)

the perceived value of court attendance; (2) perceptions of judges and caseworkers; (3) perceived knowledge of the court process; (4) confidence about and preparedness for appearing in court; and (5) barriers to court attendance. Overall, the training had a significant positive impact on caregivers' confidence level and it resulted in increased positive attitudes about going to court.

Caregivers' Beliefs in the Value of Court Attendance

The caregivers who attended training believe in the benefits of going to court on behalf of their foster children, and these caregivers want to participate in court. Prior to the training, 9 out of 10 caregivers agreed that there are many good reasons to attend court, that it is important that foster parents go to court, and that children in care benefit when their caregivers attend court. Eight out of 10 said that the benefits of going to court outweighed any risks in doing so.

Attending training further reinforced the perception that court attendance is beneficial. Post-training, there was a significant increase in the proportion of caregivers who agreed on the importance of attending court, that attending court benefited the children in their care, and that the benefits of attending outweigh the costs.

| Perceived Value of Court Attendance | | | | | | |
|--|-------------------------|--------------|--------------------|--------------------------|--------------|--------------------|
| Attitude | % Agree Pre-Test | | | % Agree Post-Test | | |
| | Strongly Agree | Agree | Total Agree | Strongly Agree | Agree | Total Agree |
| There are many good reasons for foster parents to go to court.* | 56% | 38% | 93% | 66% | 34% | 99% |
| I would not mind participating in court hearings. | 43% | 50% | 93% | 44% | 47% | 91% |
| Children benefit when their foster parents attend court hearings.* | 44% | 47% | 91% | 60% | 38% | 99% |
| It is important that foster parents go to court.* | 44% | 47% | 91% | 59% | 39% | 98% |
| The benefits of going to court outweigh the costs* | 38% | 43% | 81% | 50% | 39% | 89% |
| I can't think of any good reason to go to a court hearing. | 3% | 13% | 16% | 4% | 5% | 9% |

*Significant difference between pre- and post-test (sig. = .00)

Caregivers' Perceptions of Judges and Caseworkers

Most of the caregivers who attended came into the training believing that judges welcome them in court but that social workers do not. Eight out of 10 agreed that judges welcome foster parents in the courtroom, whereas only 3 out of 10 said that caseworkers encourage foster parents to attend court hearings.

After training, caregivers were even more likely to believe that judges welcome them in the courtroom. Likewise, they were significantly less likely to say that they don't know why a judge would want to hear from a foster parent. Perceptions of caseworkers did not change as a result of the training.

| Perceptions of Judges and Caseworkers | | | | | | |
|--|-------------------------|--------------|--------------------|--------------------------|--------------|--------------------|
| Attitude | % Agree Pre-Test | | | % Agree Post-Test | | |
| | Strongly Agree | Agree | Total Agree | Strongly Agree | Agree | Total Agree |
| Judges welcome foster parents in the courtroom.* | 23% | 58% | 81% | 33% | 59% | 92% |
| Caseworkers encourage foster parents to attend court hearings. | 7% | 21% | 28% | 6% | 25% | 32% |
| I don't know why a judge would want to hear from a foster parent.* | 7% | 10% | 17% | 3% | 6% | 8% |

*Significant difference between pre- and post-test (sig. = .00)

Caregivers' Perceived Knowledge of the Court Process

As noted earlier, caregivers came to the training with a general sense of what kind of information they should present in court, but with gaps in their knowledge about what actually happens in the courtroom. This gap can be seen in their self-perceptions of their own knowledge levels as well. Prior to training, about two-thirds said they knew how to introduce themselves in court, and almost half agreed they knew what information is most important to present in court. Fewer (39 percent) said they knew what to expect in court or what to include in a written report to the court (31 percent). Interestingly, 4 out of 10 caregivers said it was important to tell the truth in court, unless it contradicts the caseworker. This relatively high level of agreement hints at problems with the relationship, particularly the power dynamics, between caregivers and social workers. This is an issue that arose in the caregiver focus groups and case studies as well.

Just as caregivers' actual knowledge levels increased after training, their self-perceptions of their own knowledge increased significantly as well. By the end of the training, 90 percent to 96 percent of caregivers agreed that they knew what to expect in court, how to introduce themselves, and what information to present orally or in writing. However, their relative unwillingness to contradict a caseworker in court was not affected by the training.

| Caregivers' Perceived Knowledge of the Court Process | | | | | | |
|--|-------------------------|--------------|--------------------|--------------------------|--------------|--------------------|
| Attitude | % Agree Pre-Test | | | % Agree Post-Test | | |
| | Strongly Agree | Agree | Total Agree | Strongly Agree | Agree | Total Agree |
| I know how to introduce myself to the court.* | 19% | 46% | 65% | 44% | 52% | 96% |
| I know what information is most important to present to the court.* | 13% | 33% | 46% | 41% | 56% | 97% |
| It is important to tell the truth in court unless it contradicts the caseworker. | 26% | 14% | 40% | 17% | 23% | 39% |
| I know what to expect in court.* | 7% | 32% | 39% | 24% | 66% | 90% |
| I know what should be included in a written report to the court.* | 7% | 24% | 31% | 36% | 58% | 94% |

*Significant difference between pre- and post-test (sig. = .00)

Caregiver Confidence and Preparedness

Caregivers arrived at the training fairly confident about going to court. Although slightly more than half said that the court process was a mystery to them, 79 percent still agreed that they felt confident about attending a hearing, and 74 percent said they felt prepared to speak in court. Relatively few (13 percent) admitted to being too scared to go to court.

Not surprisingly, as knowledge levels increased with training, so did confidence levels. After training, 9 out of 10 caregivers agreed that they were confident about attending a hearing and that they felt prepared to speak in court, and the proportion of caregivers who saw the court process as a mystery decreased to 19 percent.

| Caregivers' Confidence/Preparedness | | | | | | |
|--|-------------------------|--------------|--------------------|--------------------------|--------------|--------------------|
| Attitude | % Agree Pre-Test | | | % Agree Post-Test | | |
| | Strongly Agree | Agree | Total Agree | Strongly Agree | Agree | Total Agree |
| I feel confident about attending a court hearing.* | 22% | 57% | 79% | 36% | 58% | 94% |
| I feel prepared to speak in court.* | 27% | 47% | 74% | 32% | 61% | 93% |
| The court process is a mystery to me.* | 12% | 42% | 55% | 5% | 14% | 19% |
| I would be too scared to go to court. | 4% | 9% | 13% | 3% | 9% | 11% |

*Significant difference between pre- and post-test (sig. = .00)

Barriers to Court Attendance

About 4 out of 10 caregivers agreed that it is expensive for them to go to court. However, as noted earlier, cost does not seem to be a true barrier to court attendance, at least for this sample of caregivers. (Recall that only 1 percent of caregivers who had not gone to court gave cost as a reason.) Likewise, very few caregivers (12 percent) came to the training agreeing that going to court is not worth the risk involved. These attitudes did not change significantly as a result of training.

| Barriers to Court Attendance | | | | | | |
|--|-------------------------|--------------|--------------------|--------------------------|--------------|--------------------|
| Attitude | % Agree Pre-Test | | | % Agree Post-Test | | |
| | Strongly Agree | Agree | Total Agree | Strongly Agree | Agree | Total Agree |
| It is expensive for me to go to court. | 13% | 25% | 38% | 11% | 22% | 33% |
| Going to court is not worth the risk involved. | 2% | 10% | 12% | 4% | 4% | 8% |

Caregivers' Attitudes Six Months After Training

A subsample of 61 caregivers who attended training were contacted by telephone six months after the training to assess any changes in attitudes in the months following the training. Five attitude items were surveyed, three of which had shown significant increases in agreement as a result of training, and two of which were not affected by training.

There were no significant changes in any of the attitudes between the post-training assessment and the follow-up survey. Thus, positive attitudes about court

attendance and the increased level of confidence regarding court participation that resulted from the training remained high six months later. As expected, the two attitudes that did not change as a result of training (“Caseworkers encourage foster parents to attend court hearings”; and “It is expensive for me to go to court.”) remained stable six months later.

| Attitudes at Six-Month Follow-Up | | | | | | |
|---|--------------------------|--------------|--------------------|--------------------------|--------------|--------------------|
| Attitude | % Agree Post-Test | | | % Agree Follow-Up | | |
| | Strongly Agree | Agree | Total Agree | Strongly Agree | Agree | Total Agree |
| Children benefit when their foster parents attend court hearings. | 60% | 38% | 99% | 73% | 22% | 95% |
| I feel confident about attending a court hearing. | 36% | 58% | 94% | 41% | 56% | 97% |
| I feel prepared to speak in court. | 32% | 61% | 93% | 39% | 54% | 93% |
| Caseworkers encourage foster parents to attend court hearings. | 6% | 25% | 32% | 10% | 29% | 39% |
| It is expensive for me to go to court. | 11% | 22% | 33% | 12% | 24% | 36% |

In summary, the training reinforced the perception among caregivers that court attendance is important and beneficial for children in care. Paralleling the significant increases in actual knowledge that occurred as a result of training, the training also increased caregivers’ self-perceptions that they were knowledgeable about the court process and it increased their confidence in attending court. Positive attitude changes remained stable over the six-month period following the training.

CAREGIVER FOCUS GROUPS

To further explore and expand upon the findings of the pre- and post-training and the follow-up surveys, a total of 22 caregivers were interviewed in four focus group discussions—one in each of the four study counties. These caregivers were predominantly Caucasian women licensed as foster care providers by county agencies. They varied widely in the length of time they had been foster parents—anywhere from 1 to 35 years. Most had biological children in addition to foster children, and many had adopted one or more foster children.

The group discussions centered on: (1) exploring the relationships between caregivers and other participants in court, namely attorneys, social workers, and birth parents; (2) the process of giving and receiving information about children in care; and (3) caregivers' experiences in court.

Relationships Between Caregivers and Other Court Participants

Caregivers in the focus groups described the nature of their relationships with their foster children's attorneys and social workers in disparate ways that seemed to depend on the individual characteristics of the case and the personalities of the individuals involved. Their opinions of attorneys were generally neutral to highly positive. Some caregivers reported that they had never had any contact with their children's attorneys, while others talked with attorneys frequently and freely called them for opinions or advice about their children's cases. Different caregivers reported widely differing experiences with the same attorney, ranging from "I've had incredibly positive experiences. She's an exceptional attorney," to "I thought she didn't care about kids." Several caregivers mentioned that social workers discourage them from speaking with their children's attorneys, because caregivers often provide information to attorneys that is contrary to that provided to the attorneys by the social worker. Still, most of the caregivers interviewed felt comfortable calling their children's attorneys directly to get or to provide information about their children's cases.

Caregivers' opinions about social workers tended to be neutral to highly negative. Many of the focus group participants commented on the high turnover among staff in county social services agencies (resulting in caseworkers who didn't understand their cases) and the lack of experienced social workers (resulting in inefficiencies and difficulties in obtaining services). Caregivers felt they were "left in the dark" regarding case plans, that information they gave to social workers was not passed on to judges, and that social workers in general do not know what is going on with the children on their caseloads. As one caregiver said, "One reason I went to court

was to make sure what the social worker said in her court report was what I really said. Lots of times they just don't get it right." While these caregivers were for the most part sympathetic to the fact that social workers are overworked, they also tended to see social workers as ineffective, overcontrolling, and in some cases disrespectful. One foster parent noted, "Social workers view foster parents as their clients—like the parents. There's an underlying disrespect."

When these caregivers talked about attorneys and social workers, the most striking difference seemed to be that they looked to attorneys as experts who could provide assistance, answer questions, make certain that relevant information got to judges, and act in what caregivers felt was the best interests of the child. Caregivers seemed more likely to view themselves rather than social workers as the experts, who knew more about the children and what should happen with them than the social workers did. A typical comment about whether the relationship with the social worker was positive was, "It depends on how much they work with you. If they at least will get out of the way so you can do what you have to do, that's enough." These foster parents wanted to have direct contact with judges by having "the department get out of the way in between judges and foster parents." On the other hand, there was no mention whatsoever of having attorneys "get out of the way" in the court process.

The caregivers interviewed were primarily foster care providers, not foster-adopt parents, and they reported that they often had good relationships with birth parents. One caregiver noted, "Social workers just like to portray foster parents and biological parents as people who don't like each other." Another said, "Social workers don't want you to team up with parents. They're afraid if you get together it'll take away some of their control." Caregivers also felt that they "walk a very fine line" in relationships with birth parents, however, because of their role in the visitation process. On the one hand, they work very hard at making sure birth parents know the caregivers are not "out to take their babies," and many of these caregivers function as mentors to birth parents. They noted that birth parents are like their foster children, except most of them grew up without the services they needed. Several caregivers mentioned that they regularly give photo albums of the children, clothing, and other items to birth parents. "It's out of our own pockets," said one. On the other hand, they see their primary responsibility as to the child, and they are well aware of the reasons children come into the child welfare system. As one caregiver put it, "We're also realistic. If we see a con artist, drug addict, or someone like that we recognize it." Since they often supervise the children's visits with birth parents, they sometimes must report to social workers on birth parents' negative behaviors during visits—a situation that

can strain relationships with birth parents. In addition, several caregivers reported experiencing threats from birth parents during encounters at social services agencies or at court. In general, caregivers seemed to want more social worker supervision or facilitation of the relationship between themselves and birth parents in order to help “smooth out” these relationships. They are especially uncomfortable with the idea that the visitation system can set them up as the “bad guys” in the eyes of birth parents, when they clearly see themselves as the “good guys.”

Information Sharing

Like the individual relationships between caregivers and social workers, the extent and type of information provided to caregivers varies from one social worker to another. Caregivers agreed that “some (social workers) will come to your house and put up their feet and tell you everything they know (about the case). Others say ‘I’ll be the filter.’ They tell us only what they want us to hear.” In general, though, caregivers in these focus groups said they rarely get enough information

[T]he information ...“is not accurate. Even if you get it, you can’t trust it.”

from social workers about the children in their care, not even critical medical information (although one did acknowledge that “to be fair to the social workers, they go to pick up the child and they don’t get all the information they need from the parents”). Another problem is that the information they do receive “is not accurate. Even if you get it, you can’t trust it.” One caregiver received a baby “with a sheet of paper that said TB with a question mark.” The caregiver could not find out from the social worker whether the child actually had tuberculosis, and so had to do her own research for several days in order to get an answer. She noted, “You have to be a detective to find out the information you need about the kids. You talk to a lot of different people and piece things together.” Caregivers rely on pediatricians, birth parents, children’s relatives, and others involved with the child to find out information that they feel the social workers should be providing them with. For example, one caregiver for medically fragile babies noted that when she cannot get HIV information from social workers her pediatrician gives her a “short-hand” feedback regarding possible HIV infection. “If he says ‘You don’t have to take universal precautions,’ we know the baby is HIV negative,” she said. Several foster parents related some horrifying stories about misinformation regarding medical issues. In one case when the child arrived at her home the foster parent was told she needed a kidney transplant. It

turned out that she had already had the kidney transplant and was on special medication to avoid rejecting the organ. In another case a child with severe medical problems needed surgery. “I went to the social worker, to her boss and to her boss,” said the caregiver. “They didn’t understand that the child needed it. The attorney never returned my calls. It took eight weeks—finally I got a hold of his dad and told him to call the social worker. The social worker said it would take seven days (to get a court order).” I said, ‘He’ll be gone (dead) in seven days.’”

When asked what information they felt they should receive about children in their care, caregivers said “everything—as much as the agency knows.” Caregivers want copies of case plans, they want copies of court reports, and they want names and phone numbers of children’s attorneys. One said, “It’s stupid and costly for the social worker not to give us the information. Continuances occur because they won’t tell us who the attorneys are so we can’t give the information to them. Then the case gets continued.” Many noted that the main reason they go to court is to get the information that is not forthcoming from social workers. Reasons they cited for needing more extensive information included security (they were concerned about their own and their families’ safety in having contact with birth parents), being up to date on children’s medical needs, being prepared for children’s behavioral and emotional issues, and being aware of problems that might occur during or after visits with birth parents.

The caregivers interviewed tended to keep detailed records regarding the children in their care. These included visitation logs, telephone logs, medical logs, diaries of children’s development and behaviors, and photo albums documenting children’s growth. They do this because they “want the judge to know this (the child) is a real person.” Many also document birth parent behaviors during visitation and concerns about birth parents. Many had submitted information to the court, and these submissions had taken various forms—memos, letters, and photocopies of diaries, and logs. In general, the impetus for submitting information to attorneys or directly to the court was that caregivers had provided such information to social workers but were concerned that the information had not or would not get to the judge. As one said, “I take it to the social worker, the court, to the attorneys, and I bring extra copies to court with me. We have a contact form from the county, but I don’t give it to the social worker. I don’t trust her to attach it to her court report.” Several caregivers noted experiences with social workers who were “too busy to do their jobs” and who did not make their mandated monthly visits with children on their caseloads. These situations in particular seemed to prompt caregivers to take action by calling attorneys and

submitting information to attorneys or the court. In general, caregivers liked the idea of having an official form on which they could submit information to the court. They felt that foster parents who take the initiative to submit information to the court could be seen as hostile by social workers. An official form could

“I think there should be a meeting right at the beginning (of the case). Everyone involved should come That way, everyone is accountable for their piece.”

sanction the process of giving information in such a way that it might diffuse that negative interpretation.

In general, these caregivers envision an ideal world with information flowing freely between all of the parties in a case and all parties involved in case planning. They see this ideal model as much more

beneficial for children than what happens currently. There was much agreement with the following statement by one caregiver: “I think there should be a meeting right at the beginning (of the case). Everyone involved should come—parents, relatives, the social worker, and the lawyers and the judge too. The foster parents should be invited. Everyone can get together and come up with a plan for the parents to get the child back and everyone will know what they’re supposed to do. That way, everyone is accountable for their piece.”

Caregivers’ Experiences in Court

Many of the caregivers interviewed had attended court. They went to observe and obtain information and to advocate for children in their care. As one said, “The court needs to see there is someone who cares about the child.” In addition, caregivers noted that because of turnover among social workers and attorneys, foster parents are often the only individuals involved who have continuous contact with children throughout the case. Thus, they can provide a continuity of information that is not available from anyone else.

“We go to court so we can sleep at night. We feel powerless, even though we know what the child needs. But we have no control. They can’t say they didn’t know the child has asthma as long as I file my report with the information in it. That way, I’ve done my part and I can sleep at night.”

One caregiver said, to much agreement, “We go to court so we can sleep at night. We feel powerless, even though we know what the child needs. But we have no control. They can’t say they didn’t know the child has asthma as long as I file my report with the information in it. That way, I’ve done my part and I can sleep at night.”

Again, caregivers’ experiences in court varied widely, depending on the circumstances of the case and the individuals involved. Several caregivers described judges who were seen as “pro–foster parent.” In their courtrooms, caregivers felt welcomed, were addressed directly by the judge, and felt free to speak. As one described it, “The judge will say ‘Hello, how are you today?’ I’ve taken the whole (photo) album with me in case the judge wants to see it.” Another said that she likes that when she submits a report to the court the judge will say, “Good, I appreciate your report.” Others described experiences in which they were told by birth parents’ attorneys or social workers that they could not enter the courtroom, or they were asked to leave the courtroom at the request of birth parents’ attorneys. Several of the caregivers who went to court but did not speak mentioned that they would have done so if the judge had asked them if they had anything to say. They did want to make a statement, but they did not know how to get the attention of the court or were not comfortable asking to speak. “It would really be great if the judge could ask us, ‘Do you have anything to say?’ That would really help,” commented one. Another said, “I’d like to be welcome to come to a hearing early on to talk about the child’s special needs. Maybe the judge should know more about the child early on.”

Caregivers mentioned a number of barriers to attending court. Often cited was a lack of county-approved respite care for their foster children. One caregiver who brought her toddler into the courtroom was made to feel very uncomfortable by the bailiff, who repeatedly asked her to keep the child quiet. Caregivers also mentioned the long periods of time (up to four hours in some cases) that they

sat in the lobby waiting for cases to be called. Several caregivers mentioned a lack of training in the court process as a barrier. One commented, “Part of what we’re facing is not having quality training. The legal aspect of foster care is different from child development.” Another noted, “New foster parents don’t know they can go to court. They go to court and they don’t know they’re supposed to check in. They don’t sign in and then they don’t get called in.” Most frequently,

“Part of what we’re facing is not having quality training. The legal aspect of foster care is different from child development.”

however, caregivers talked about their perception that social workers don't want them in court. Most of the caregivers interviewed had been told by social workers that they should not or were not allowed to attend court. In general, none of these barriers actually kept caregivers from attending court, they simply made the process more difficult. However, several caregivers noted that they felt like they were "in trouble with the department" as a result of going to court.

The caregivers who went to court had mixed feelings about the experience. If they were able to speak, be heard (i.e., their recommendations were accepted), and be treated "as part of the team," they were highly satisfied with their experience in court. On the other hand, for some of them going to court served to make them feel more frustrated with "the system" because their attendance did not seem to make a difference, their input was discounted, or they were openly discouraged by social workers or attorneys from participating. A number of caregivers noted that they would like to understand the law better; in particular they would like to understand in what ways social services agencies have the discretion to interpret or implement the law—the implication being that social workers have too much leeway in interpreting judges' orders and that agency policies are interpreted in a variety of ways that don't make sense to caregivers.

The caregivers who went to court also had mixed feelings about whether their presence had an impact on the well being of children in their care. Several

“We have these children 24 hours a day. We spend all our time with them. Our opinions should matter. We would all feel better if we could be part of the team.”

caregivers noted that “it keeps social workers on their toes,” forcing them to do their jobs better. In addition, “people see that someone cares,” and thus they pay more attention to the case. Several caregivers who went to court to request specific services or court orders noted that their requests on behalf of the child were met immediately as a result of their being in court.

In summary, the focus group interviews supported and expanded upon much of the information gathered in the pre- and post-training assessments.

The caregivers interviewed very much value the opportunity to go to court and to be a part of the case planning team. As one summed it up, “We have these children 24 hours a day. We spend all our time with them. Our opinions should matter. We would all feel better if we could be part of the team.” They have relatively positive views of attorneys, judges, and the legal process (although they would like to understand the law better). For the most part, however, they are critical of social workers, believing many of them to be inexperienced, ineffective,

and overcontrolling. In addition, they believe that social workers do not want them in court and that by going to court they risk damaging their relationships with individual caseworkers and with the agency. The caregivers interviewed perceive a serious imbalance in the way information about foster children is disseminated. They see themselves as being far more knowledgeable than attorneys and social workers about the children in their care but having the least access to information about their children's cases. In addition, they often feel that their input is ignored or contradicted in case planning. Their decisions to attend court appear, for the most part, to be reactions to perceived problems with social workers or social services agencies. That is, caregivers go to court because, in their opinion, they are not receiving the information from social workers they believe should be forthcoming, their foster children are not receiving the services they think they should be receiving, and the feedback they give social workers is not being incorporated into case planning.

CAREGIVER CASE STUDIES

Case studies were conducted with eight caregiver families across the four study counties in order to develop a more in-depth understanding of why caregivers attended court, what occurs when they do, and what impact court participation may have on outcomes for children in foster care. Case study participants were chosen to represent the range of caregiver types, including long-term foster care, foster-adopt, and kin care, as well as other important characteristics including county-licensed homes and foster family agency (FFA) homes, families with children under age three, and families with teenaged children. Case study participants were interviewed several times to gather case histories and information on the caregivers' understanding of the court process and their previous experiences in court. Caregivers were observed in court a minimum of 2 and as many as 10 times over the nine-month duration of this study. A final component of the case study process was a review of court files for all of the children in care with these caregiver families. Detailed descriptions of case histories and court participation are included in the eight case studies that follow.

Reasons for Court Attendance

Caregivers attended court for a variety of reasons—to stay informed about the case, to make certain that correct information was being presented to the court, and to show concern and support for the child. Underlying six of the eight cases were perceived communication problems with social workers, that is, that social workers either were not providing caregivers with enough or correct information about their children's cases, that they were not utilizing the information caregivers provided to them in their reports to the court, or in three cases that they were actually providing false information to the court.

Court Participation

Once caregivers began attending court, they typically attended all of the hearings that occurred for their children's cases—ranging from 2 to 10 hearings for each caregiver family over the nine months of this project. In four cases, only one caregiver attended court because the other one needed to go to work or stay home and care for the children. Waiting times for hearings were long, lasting anywhere from one to four hours, and several times cases were continued for procedural reasons—such as lack of notice or improper notice to birth parents—that could have been avoided. In the courtroom, caregivers were usually, but not always, announced to the court by the court officer, and they typically sat at the back of

the room in the observers' section or in the jury box. Judges usually nodded to them or said good morning, but did not acknowledge them in any other way. Only in one case did the judge routinely ask the foster parent if she had anything to say.

In all but one case, caregivers and birth parents routinely encountered each other in the lobby prior to hearings. For the most part, these encounters were neutral, that is, they simply said hello to one another. In several cases, there were cordial conversations about the children, and the caregivers brought photographs to share with the birth parents. Over the course of the project, there were only two negative encounters noted between birth parents and caregivers. In one case, the foster father was verbally threatened by the birth father; however, the relationship eventually became cordial again. In another case, the birth mother objected to the foster-adopt parent's presence in the courtroom, and the judge asked the foster-adopt parent to leave.

In four cases the caregivers submitted statements in writing to the court. All of these statements outlined concerns about behaviors of the birth parents that were detrimental to the children. In one case the caregivers also wrote statements in support of their desire to become legal guardians for their foster children. Several of these caregivers mentioned that the Caregivers and the Courts training had helped them understand how to formulate and submit their statements. These statements were, for the most part, clear, well written, and quite professional in tone and content.

In five of the eight cases the caregivers applied for and were granted *de facto* parent status, in order to be a party to the proceedings; in only three of these cases, however, did they actually participate in court (that is, move to the main table with the other parties and receive copies of court reports). In the other two cases, *de facto* status seemed to make no difference—the caregivers continued to sit at the back of the courtroom and simply observe the proceedings. Only one *de facto* parent was represented by an attorney (who was appointed by the court). In only three of the eight cases did the caregivers speak in court. One was routinely asked whether she had anything to say, and she spoke at every hearing. Another raised her hand and spoke several times to correct misinformation provided by the court liaison and once to request that hearings for her three granddaughters be held together rather than on separate days (her request was granted). The third one spoke once, very late in the case, to object to a judge's decision to grant overnight visits to a birth parent (the judge then decided not to grant the visits).

Impact of Caregivers' Participation on Outcomes for Children in Care

Four of the eight caregivers definitely believe that their participation in court—either in writing or in person—had an impact on the outcomes for children in their care. In the first case the caregivers believe that essential information about the birth parents' behavior during visitation would not have gotten to the court if they had not written. In addition, the foster father was able to develop a relationship with the birth father and the maternal grandmother while waiting at court, which ultimately resulted in their approval of the child's adoption. In the second case, the caregiver believes that she provided essential information to social workers about what occurred in court (since they did not attend court), and that her constant contact with the social workers and her presence in court kept social workers focused on the case and "moving things along." In the third case, the caregiver's active participation in court appears to have influenced the judge to push for guardianship for one child (and therefore permanence) faster than the social worker recommended, and to grant guardianship for two other children rather than placement with relatives with whom the children had had no contact. Finally, in the fourth case, the caregivers provided essential information to the court regarding the birth mother's lack of visits with the children that they believe would have never gotten to the court if they had not submitted it.

All but one of the other four caregiver families believe that it was important for them to go to court, even if it did not seem to make a difference in their children's cases. One caregiver who is planning to adopt her foster child believes it was important to attend court to gather as much information as possible about the child's case so that he will have this information when he is older. Another family attended court at the urging of the FFA agency in order to show their concern for the children and their desire to provide them with a permanent home. A third family attended only to observe the proceedings but now wishes they had retained an attorney and become active participants in the proceedings, as it appears that their foster-adopt children (who have been with them for 20 months) may now be returned to the birth father who has never had custody of them. Finally, only one caregiver stated that her attendance at court was "basically a waste of time," since she only observed the proceedings and because of the layout of the courtroom sometimes could not even hear what happened in court. She likes the idea of submitting information to the court in writing, however, and she plans to do so with another foster child, now that a form for doing so is available for caregivers.

CASE 1: TWO PROUD PAPAS

Foster Father: “He (birth father) was struggling to be honorable, and I wanted to honor that.”

Birth Father: “I’m not happy about my son being taken away from me, but if he is going to be adopted I want him (foster father) to be his dad.”

Highlights

- Francisco²⁵ was born drug-exposed and six weeks premature, and he was placed in foster care when he was five days old. His parents had an extensive history of drug abuse, criminal activity, and domestic violence. Two older half-siblings had been previously removed and adopted by their maternal grandmother. Another half-brother, removed at the time of Francisco’s birth, was also placed with the grandmother. Francisco was a very handsome, healthy Hispanic baby.
- Francisco had one foster care placement, with John and Cindy Banks, a Caucasian couple with two teenage daughters from previous marriages. John and Cindy provided emergency shelter care, but they wanted to adopt. They nicknamed Francisco “Frank.”
- After Frank had been with them for a year, John and Cindy requested *de facto* status because they were concerned that negative information regarding the parents’ visits with Frank would not be provided to the court by the social worker or taken into account in case planning. They also wrote a letter to the social worker regarding their concerns and sent copies to Frank’s attorney and to the court. They were granted *de facto* status two months later, and John attended all hearings from then on, as an observer.
- Frank’s case was open 27 months, until he was adopted by John and Cindy.
- Impact of foster parent participation in court: John and Cindy believe that essential information about the birth parents’ behavior during visitations would not have gotten to the court if they had not written to the court. John had many conversations—both positive and negative—with the birth father while waiting in the lobby before hearings. He also talked extensively with the maternal grandmother at court, which led to her approval of Frank’s adoption. Both birth parents submitted to the termination of their parental rights and said they did so in part because they knew Francisco was in a good home where he was loved.

²⁵ To protect the privacy of case study participants, all names and other identifying information used in these case studies are fictitious.

Case History

John and Cindy Banks are a Caucasian couple in their early 40s who live in a semirural Northern California community. John commutes to his job as a training supervisor for a large city agency. Cindy is a homemaker. They have two teenage daughters from their previous marriages. Their home is cozily decorated with country knickknacks, floral curtains, and family photos.

When John and Cindy found they were unable to have children together, close friends who were foster-adopt parents encouraged them to try to adopt a child through foster care. They contacted their county social services agency, where the licensing social worker suggested that they first provide foster care, “to see what the children are like,” before adopting. They were quickly licensed as an emergency satellite home, accepting children immediately as they came into care. Five children were placed in their care for short periods of time prior to the arrival of Francisco.

Francisco, whom John and Cindy nicknamed “Frank,” was placed in their home when he was five days old. He was born prematurely and drug-exposed, but he had no serious complications. His parents, Javier and Angelica, had an extensive history of drug abuse, criminal activity, and domestic violence, and both had spent time in jail. In fact, Angelica had been arrested for stabbing Javier just before Frank was born. Two older half-siblings had been previously removed and adopted by their maternal grandmother. Another half-brother, removed at the time of Frank’s birth, was also placed with the grandmother. Javier is a very large man who exudes bravado and toughness. With his shaved head, prison tattoos, and chain belt, he presents a very intimidating figure indeed. Angelica is quieter but cultivates a “gang banger” look and attitude as well. These parents had the odds stacked against them in reunifying with Frank, but the plan was to reunify.

Frank was a beautiful, healthy baby and John and Cindy fell in love with him immediately. Still, they knew the goal was to reunify him with his parents, and they supported that goal. Cindy developed a cordial relationship with Angelica and Javier when she dropped him off at the supervising agency for weekly visitation. She routinely reported in detail to them how Frank was eating and sleeping, and she frequently gave them photos of Frank, which they seemed to appreciate very much. John also met Angelica and Javier a few times when he dropped off Frank, and again, their interactions were always cordial.

At the outset of this case, John and Cindy had no plans to attend court. They understood that their role was to provide care for Frank and to support reunification. Over time, however, they began to see Frank more and more as their own child, and they began to have serious concerns about Angelica and Javier's abilities to remain clean and sober and about their violent relationship with each other. Javier, in particular, seemed quick to anger, and he and Angelica often argued loudly during their visits with Frank. The first social worker on Frank's case had made it very clear what the expectations were for Frank's parents to be reunified with him. When she began to suggest that he might not be returned to them because they were not meeting the goals of their case plan (Javier had several positive drug tests, and Angelica didn't show up for her drug tests), Javier and Angelica requested and received a new case worker. To John and Cindy, it seemed that things went downhill from there. Angelica and Javier began to miss visits, and when they did visit with Frank the visits did not go well. Afterward, Frank was upset and difficult to console. When John and Cindy expressed their concerns to Frank's new social worker, however, she insisted that everything was fine, the case was moving toward reunification, and the family would soon begin unsupervised visits. John and Cindy felt they had had a good working relationship with the first social worker. She had often called them to see how Frank was doing, and she seemed to value their input. This new social worker seemed to want no contact with them, she did not visit or call to find out about Frank, and she did not seem particularly interested in any information that they volunteered.

Just after Frank's first birthday, staff at the agency where the visitation took place reported to Cindy that Javier and Angelica had a very loud argument during the visit and that Javier had stormed out and left Angelica without a ride home. Shortly afterward she had left too, before the visit was scheduled to end, and Frank had been left crying with agency staff. He was inconsolable, and even after Cindy got him home he cried and cried and could not be comforted. John immediately called the social worker to report what had happened and again to stress that he and Cindy felt that unsupervised visits would not be wise, given how volatile Javier and Angelica's relationship seemed to be. To John, the social worker seemed completely unsupportive. She "kept making excuses for their behavior," and she insisted that unsupervised visits would proceed. At this point, John and Cindy's friends who were foster-adopt parents suggested they contact their county's foster care advocate. The advocate recommended that they submit a letter to Frank's attorney outlining their concerns. As she put it, "The child's attorney is the child's advocate—you need her on your side." She also suggested that they apply for *de facto* parent status.

Court Participation

John and Cindy took the advocate's advice and wrote a letter to the social worker outlining what they knew about the visit, urging her to get a copy of the notes that the supervising agency had made about the visit (she had told them she couldn't get the notes) and reiterating their concerns that it would not be safe for Frank to have unsupervised visits at this time. They were careful not to say anything that Javier and Angelica might see as "derogatory," and they stated in the letter that they were supportive of reunification if Frank's parents were able to improve their relationship with each other and to meet the goals of their case plan. They submitted copies of the letter to Frank's attorney and directly to the court. They also submitted an application for *de facto* status, and they made the decision to begin attending hearings. They agreed that John would attend alone because the court was very near where he worked, and his job allowed him the flexibility to do so. Finding county-approved childcare and traveling the hour each way to court would be difficult for Cindy. Cindy also felt that she was becoming very emotional about Frank's situation and that she would have a difficult time maintaining her composure in court.

John and Cindy's relationship with Frank's social worker took a turn for the worse after their letter arrived. While she didn't tell them they could not go to court, she did say several times that it "wasn't necessary." She also stated that she thought they were being too assertive about the case plan. She did not, however, grant unsupervised visitation as had been her earlier plan. She did attach their letter to her report to the court; however, this was five months after the report had already been sent directly to Frank's attorney and the court. She also attached the notes from the agency that supervised visitation--notes that she had previously told John she was unable to obtain.

Their relationship with Angelica and Javier soured as well. Angelica began to complain that strangers were trying to tell her how to raise her child and that Frank cried during visits because John and Cindy were not taking good care of him. The next time John saw Javier (which happened to be the first time John went to court), Javier approached him in a threatening manner, fists clenched, and berated him for sending the letter.

On the other hand, John began to develop a very good relationship with Frank's attorney, and quickly came to believe that she had Frank's best interests in mind. It seemed that at first she was concerned about what was his and Cindy's "agenda," but once they began to talk with each other (primarily while waiting at

court) she came to believe that they only wanted what was best for Frank. For their part, John and Cindy began to believe that they had an advocate in this process. Since information about the case was not forthcoming from Frank's social worker, they began to call the Frank's attorney if they had questions about the case or what was to happen at a particular hearing. John noted that "she always called back the same day, no matter how busy she was." When he first began attending court, "everything was a mystery," but he knew that he could ask Frank's attorney what to expect.

John and Cindy were granted *de facto* status two months after their application. Afterward, they began to receive written notices of hearings, which they had never before received. John attended every hearing afterward, totaling about 15 hours in court, mostly waiting in the lobby. He noted that the lobby "is a creepy place when you first go there," with "all sorts of unsavory characters," but he quickly got used to it. The first hearing he attended was extremely stressful because of the encounter in the lobby with Javier. When Javier accosted him, John tried to explain that he "just wanted to be honest about what was happening at the visits," but Javier continued to be extremely angry. He repeated several times, "I would kill for my son," which John definitely perceived as a threat. Javier eventually stepped away, and John quickly wrote down what had occurred and sought out Frank's attorney for advice. At the hearing, she requested and was granted a court order that Javier not be allowed to have any contact with the foster family.

Interestingly, over the course of the next year, John and Cindy's relationship with Javier and Angelica became cordial again. Cindy and Angelica began talking again when Frank was dropped off for supervised visits. And, although the restraining order was still in place, John and Javier began to talk to each other in the waiting room at court. At their next meeting, Javier apologized for his previous behavior toward John, and John accepted his apology. John began to tell Javier cute stories of things Frank was doing, and since Frank was now a year and a half old, there were lots of cute stories. Both John and Javier love sports, so Javier was delighted to hear that John was teaching Frank how to throw and kick a ball. Several times Frank's attorney saw them talking and said that they needed to stop. She pulled John aside one time and said, "You're supposed to follow the court order too." But Javier continued to approach John at court to ask how Frank was doing, and John "never wanted to be disrespectful." According to John, they were "two proud papas," just wanting to talk about their son. The long waiting time in the lobby also gave John and Frank's grandmother, Virginia, a chance to get to know each other. She was already caring for Frank's three half-siblings,

and she would have taken Frank too, but she was fearful of Javier's violent temper and afraid he would cause problems at her home. She attended all the hearings, however, because if she were not comfortable with where Frank ended up, she intended to try to adopt him as well. She and John exchanged information about their families, hobbies, and, of course, Frank. Their conversations were always pleasant and comfortable for John, and Virginia seemed to feel comfortable with him as well. John always said hello to Angelica, but they never spoke further.

Over the course of one year, John attended six hearings prior to the adoption finalization—the 12-month review, which was continued twice; the .26 hearing, which was continued once; and the post-.26 review.²⁶ He always dressed professionally, in a white shirt, tie, and dark pants. He sat at the back of the courtroom and was announced by the court officer. Prior to the .26 hearing, the judge always nodded to him when his name was called (as he nodded to all the other participants) but never asked if he had anything to say. The judge addressed him once at the end of the .26 hearing, stating that the case would now proceed toward adoption and that he should work closely with the adoption social worker if his desire was to adopt. At the post-.26 hearing, he addressed John by name, said he looked forward to seeing him at the adoption hearing, and noted that “that will be a happy day.” John never spoke in court, except to say “thank you, your honor” at that hearing. He always carried a folder of notes regarding Frank's visits with Javier and Angelica as well as his own contacts with them, but he never provided this information to the court, other than in the aforementioned letter. This courtroom has a low wall that separates observers from the main table where the parties to the case sit, and John was always behind that wall, despite his *de facto* status, so in a very physical way he was excluded from the process. (This differs from the procedure in another department of this court, where the judge invites *de facto* parents to sit at the main table.)

Prior to the .26 hearing, Javier's attorney approached John in the lobby and said that her client understood that his rights would most likely be terminated, and she read a statement that Javier had made that while he was not happy about his son being taken away from him, if Frank were to be adopted he wanted John to be his dad. John was very moved and close to tears. The attorney then asked if he and Cindy would consider letting Javier have visits with Frank after he was adopted. John replied that they had already given this some thought and decided they would

²⁶ The reasons for the three continuances were (1) to schedule a mediation conference, for which the birth parents did not appear; (2) the termination of services was contested and set for trial; and (3) the father of Frank's half-brother was not properly noticed of the .26 hearing.

not be comfortable with visits but that they would be willing to send photos and letters on a regular basis. In addition, they might be open to Frank having visits with his grandmother Virginia if this could be worked out in a way that was not traumatic to Frank.

The hearing to terminate Angelica and Javier's parental rights was somber and very moving. Angelica was crying when she came into the courtroom, and Javier showed none of his usual bravado. John found it very difficult to hold back his tears as well. Javier's attorney spoke for Javier, stating his wishes as she had stated earlier to John. Angelica's attorney spoke as Angelica bowed her head in tears. She noted what a difficult day it was for her client, but that Angelica knew that Frank was with a family that loved him and would look out for his best interests. Both Javier and Angelica submitted to the termination of their parental rights. Both the judge and Frank's attorney praised them for thinking of Frank's best interests and reiterated that John and Cindy would provide him with a good home.

Afterward, John, Javier and Angelica huddled for a conversation in the hall. John felt that Javier "was struggling to be honorable" and he "wanted to honor that." He told Javier and Angelica that he and Cindy loved Frank very much and that they would take good care of him and treat him as their own son. Still later in the parking lot they had another encounter. Javier had regained some of his usual swagger, and he waved and shouted out, "You take good care of my boy now. Give him a big hug and a kiss from me." Angelica, head bowed, simply headed for her car. John nodded and waved and went home to his family.

Twenty-seven months after Frank joined their family, John, Cindy, their daughters, and Frank came to court one last time to make it official. Frank's attorney and the adoption social worker joined them in the judge's chambers, documents were signed, pictures were taken, and there were hugs and handshakes all around. Frank was quiet and solemn but smiled when the court clerk presented him with a big teddy bear.

Conclusions

John and Cindy believe strongly that Frank would have been sent home with Javier and Angelica for unsupervised visits, with disastrous results, if they had not intervened by sending their letter to the court. By contacting Frank's attorney, they felt they established an important link to someone who was advocating for Frank rather than solely for his parents.

The court is a closed system, where all the regular participants (judges, attorneys, social workers, court officers, clerks, court reporters) know each other well and share a fairly small space (the courtroom) with each other for long hours. People come and go as cases are heard; decisions are made in the hallways; and attorneys crack jokes in between hearings. This can be intimidating to foster parents, even to one as capable and directed as John. The ability to turn to Frank's attorney for information about what to expect was invaluable to him.

For John, attending court consisted primarily of waiting for hours in the lobby. An observer in the courtroom might conclude that his presence made no difference, as he did not speak and the judge did not speak to him. However, the fact that he communicated with the court via the letter appears to have caused the social worker to reassess whether or not to authorize unsupervised visits. In addition, John's attendance at court hearings resulted in Frank's attorney obtaining information about her client directly from those with the greatest day-to-day contact with him. Finally, the many hours in the lobby provided a forum for John to forge a relationship with Frank's father and grandmother that ultimately led to an acceptance of him and Cindy as Frank's adoptive parents.

CASE 2: GRANDMA AND GRANDPA START A NEW FAMILY

Grandmother: *“The judge said I didn’t need to be in court, but I needed to be there.”*

Highlights

- Sofia²⁷ (age 5) and Gabriella (age 4) were voluntarily placed with their maternal grandparents after Sofia reported to her grandmother that her father had hit her in the lip with a beer bottle. Their parents, Hilda and Jose, had serious drug and alcohol problems and a history of domestic violence. The children became dependents of the court two months later, along with their newborn sister, Mariana, after their father threatened to take them from their grandparents’ home where they had been living.
- In response to their father’s threats, the county agency removed the three girls from their grandparents’ home with no notice to the grandparents and placed them in two separate emergency foster homes, despite the fact that there were many responsible family members who could have provided them with a safe home. It would take a week to get them back. Because of this, the grandparents, Maria and Daniel, determined to attend every court hearing and to be in constant contact with the social workers until the case was resolved.
- Hilda and Jose never complied with their case plans, and after two years their parental rights were terminated. Daniel and Maria would have preferred to assume guardianship of the girls, but they were told they could not do so because of Mariana’s young age, so they adopted them. Almost 50 years old, after raising five children, they are starting all over again.
- Impact of caregiver participation in court: Over the 27 months that the case was open, Maria strove to learn as much as possible about the court process and to be an integral part of case planning. The judge and the social workers told her this was “not necessary,” but she persisted. She believes that as a result of attending court she provided essential information to the social workers (who did not attend) and that her persistence kept social workers focused on the case and “moving things along.” She is now an advocate and trainer for other kin caregivers regarding the court process.

²⁷ To protect the privacy of case study participants, all names and other identifying information used in these case studies are fictitious.

Case History

Maria and Daniel Mendez are a Hispanic couple in their late forties who live in a modest but comfortable home in a semirural Northern California community. Daniel runs his own gardening business and Maria works as an office manager for a large dental practice. Together they have raised five children who are all grown. Their love for their children, grandchildren, and extended family is reflected in the many framed photographs and children's artwork that decorate almost all the walls of their home.

Although neither Daniel nor Maria were able to attend college, four of their children have done so and all four have successful jobs. The fifth and oldest child, Hilda, however, has led a very troubled life. Hilda was born to Maria when she was in the 11th grade, several years before Maria met and married Daniel. Hilda's father provided no support and did not maintain contact with Maria or the baby. Maria dropped out of high school to go to work and support herself and the baby. Eventually she met Daniel and they married and went on to build a family together. Daniel raised Hilda as his own child, along with the four other children. Still, Hilda never seemed to quite fit in and she lacked the clear sense of direction that the other children seemed to have. She got into trouble with drugs and alcohol early in her life and then dropped out of high school when she became pregnant with Sofia. She and Sofia's father, Jose, lived with Maria and Daniel for the next two years, but the situation was tense. Jose could not seem to hold a job. Hilda quickly got pregnant again, and she seemed depressed. All she wanted to do was to sit and watch television. She and Maria had many arguments about her poor parenting of Sofia. Shortly after Gabriella was born, Hilda and Jose moved with the girls to a city 150 miles away and set up housekeeping in a decrepit trailer, where they were frequently without heat or electricity. The police were called there often because of loud parties and arguments, and Jose was jailed once for assaulting a police officer. Jose often beat Hilda, but she refused to press charges or to leave him.

Daniel and Maria drove the 300-mile round-trip many times to take the girls home with them for visits, and they repeatedly urged Hilda to leave Jose and come home with them, but she would not. When they arrived to pick up the girls for one of these visits, five-year-old Sofia had a split and bruised lip and told her grandparents that Jose had hit her with a beer bottle. As soon as they got the girls home, Maria called child protective services and reported the incident. They investigated and told Maria that the girls would have to return to their home

county for an investigation there. Maria drove them back, where they were reinterviewed, as were Hilda and Jose. Hilda and Jose agreed to a voluntary placement with Maria and Daniel, so the girls again returned home with them. The case was opened in the girls' home county, with a social worker in Maria and Daniel's county supervising the placement.

Hilda and Jose did not comply with their voluntary drug testing, nor did Jose attend domestic violence counseling as he had agreed to do. Soon their third daughter, Mariana, was born, and Jose began to beat Hilda again. This time she left him and moved in with her parents and the other two girls. Almost immediately Jose called the social worker supervising the placement and said he was coming to take the girls home with him. Rather than notify Maria and Daniel of what was happening, the social worker removed them while Maria and Daniel were at work (the girls were home with their mother) and placed them in two separate emergency foster care homes. Hilda left that same day and returned to Jose. At this point, the case became a nonvoluntary removal. Maria and Daniel were horrified that they did not know where their grandchildren were, that the children had been separated from each other, and that their three-week-old grandchild was with strangers, when there were any number of responsible family members who would have taken the girls immediately, if asked. It took seven days for them to get the girls placed back with them. In the meantime, Maria was forced to quit her job because her supervisor was not sympathetic to her need to take time off to get the girls settled safely back in her home. This experience of complete lack of control over the well being of their granddaughters was so disturbing that Maria and Daniel resolved to attend every court hearing and to do everything within their power to ensure that such a thing would never happen again.

Court Participation

Maria attended a total of 10 hearings and one settlement conference over the course of the next two years, and Daniel attended most of these as well. They received written notice for some but not all of these hearings, but because they attended every hearing, they always knew when the next one was scheduled. In the beginning they simply observed the proceedings. They spent hours waiting in the lobby, only to find out several times that the hearings were being continued.²⁸ At the first hearing they attended, the judge told them "in a nice way" that they

²⁸ Reasons for continuances include improper notification of birth parents, case set for mediation, contested, and set for trial.

“didn’t need to take the trouble to be there.” Still, they felt that it was critical that they attend so they could be absolutely certain what was going to happen to the girls.

Going to court was tough because Maria had found a new job and had to take time off from work, but her new boss was sympathetic and also gave her time off to take the girls to counseling each week. The girls had settled into a wonderful day care center so childcare was not a problem. In the beginning going to court was frightening—they didn’t know where to sit, who was in the courtroom, or what would happen. Afterward, they were not entirely clear what had happened when they observed a hearing—“things happened so fast.” But Maria would just ask people (the court officer, the court liaison, or the children’s attorney) to explain what had occurred and they always did so. Maria also became active in a grandparents’ support group offered by the county, and she found the foster care advocate who attended to be helpful in answering questions and clarifying issues.

Jose continued to party and use drugs and was not in compliance with his case plan. During the early months of the case, Hilda moved back and forth between the two counties, and for a short period of time she lived in a battered women’s shelter near Maria and Daniel’s home, but eventually she made the decision to remain with Jose. Seven months into the case, Jose requested that the case be transferred back to the city where he and Hilda were living. Fearful that they would lose the girls, Daniel and Maria applied for and were granted *de facto* parent status. They had been told by someone in their grandparents’ support group that if they applied for *de facto* status they could receive copies of the court reports and that they would have more of a voice in the process. Still they did not speak in court, even when the judge ordered the social worker to investigate whether there was a foster home in Hilda and Jose’s city that would take all three girls together. To their relief, however, the social worker reported that she was not able to find such a home. In her next report to the court, she also stated that the girls were “well cared for by the grandparents” and that “moving them would be detrimental.”

Once they attended the Caregivers and the Courts training, Maria and Daniel felt much clearer about what to expect in court, and Maria often referred to the training materials to answer questions she might have. As she noted, “Everyone should have this little book.” After the training, Maria occasionally raised her hand and asked to address the court if she heard something that was incorrect.

Several times she answered questions from the judge that the court liaison could not answer. Toward the end of the two years, she was even comfortable raising her hand to object to a social worker's recommendation. Different hearings were going to be set for the older girls' and Mariana's post-.26 reviews, because the social worker hadn't gathered all the necessary paperwork for Mariana. Maria insisted that their cases all be heard together, and the judge agreed. As a result of her experiences in court, Maria became able to offer information and advice to other grandparents, and as a result she was asked to co-teach the class that trained kin caregivers in her county.

After Hilda returned to Jose, Maria and Daniel felt that things had "really gone downhill," and they believed that ultimately the girls would need to remain with them. Jose was still drinking and using drugs, and Hilda was pregnant again. This time she felt she might have a boy, and she focused all her hopes and energy on this unborn child, seeming to forget about her three girls. Maria and Daniel assumed that they would take guardianship of the girls, and perhaps someday Hilda would get her life together and be able to be a part of their lives again. They were informed by the social worker, however, that they could be guardians of the two older girls, but because Mariana was a baby she would have to be adopted. Not wanting two sisters to have a different status from the other one, they agreed to adopt them all.

Maria took responsibility for maintaining contact with the girl's social workers—there were three all together—and she was surprised to find that they did not attend court. She felt that she played a large role in keeping the social workers informed about what had happened in court—they often didn't seem to know. She called whoever was the current social worker every week to let her know how the girls were doing and to "help her along." One of the social workers, in particular, did not seem to appreciate this "help." As Maria put it, "she has an attitude." She felt that Maria was pushing her to move too quickly, and she didn't appreciate that Maria called the girls' attorney when she had concerns about the case. Still, every report to the court referred to Maria and Daniel in glowing terms. They were described as "always available," "cooperating to the full extent," "active participants," "excellent parents," "nurturing," and "committed to adoption." In one report the worker noted that "the Mendez's have been respectful and very patient when the department and this worker have not been able to meet their needs. They advocate for the children, always with respect and flexibility. They have ensured that the children's needs have been met, and they have not hesitated to seek out resources."

Two years after the girls moved in with them, Daniel and Maria went to court for the hearing to terminate Hilda and Jose's parental rights. Hilda and Jose did not attend and did not contest the termination. (Shortly afterward, a fourth daughter was born to them, and at the close of this project she was still with them. A social worker visited them once and closed the case). Daniel and Maria were both dressed conservatively, all in black, perhaps reflecting the sadness of this occasion. As they entered the courtroom, several of the attorneys happened to be laughing loudly in response to a joke one of them had just told (that had nothing to do with anything that was occurring in court). This gave a strange tenor to the proceedings, but Maria and Daniel simply sat quietly in the back of the room. During the hearing, the judge addressed them directly and asked if they were in contact with Hilda and whether they thought she was in agreement with the plan for them to adopt. They both nodded their heads, yes. At the end of the hearing, the judge spoke to them again, saying, "You folks should continue to work with the adoption social worker and we will work toward finalizing this adoption." Again, they nodded; however, no adoption worker had contacted them, and they didn't know who the worker was. So on the way out, Maria asked the court liaison for the name and phone number of the adoption worker, and she called to make the first contact.

Six months later, Maria and Daniel returned to court with their three granddaughters, seven other family members, the girls' therapist, and the adoption social worker to finalize the adoption. All 14 people stood in the lobby for over an hour until their case was called, because there was nowhere for them to all sit together. The judge was friendly and charming to the three little girls, now ages 7, 6, and 2. He gave them toys and got them to giggle at his jokes. He seemed to have forgotten, however, that Maria and Daniel were their grandparents, and he referred to them as "Mom and Dad," although the girls know them as "Grandma and Grandpa." Afterward all of the attendees, the judge, the court clerk, and the girls' attorney posed for photographs. The three little girls smiled broadly and showed off their party dresses. But this was a bittersweet moment for Maria and Daniel.

Conclusions

Living with their daughter's problems, trying to get help for her and to protect their granddaughters was difficult for Maria and Daniel, but having the girls taken away from their home while they were at work was their worst nightmare. This terrible incident was a powerful motivator for them to become actively involved in

the case and in the court process. Still, going to court was intimidating, and for the first year or so they did little but watch the proceedings. Attending training and seeking out information from advocates, attorneys, and other kin caregivers helped them feel more comfortable with the proceedings and prompted Maria in particular to be more actively involved in the case—even when she was discouraged from doing so. It is difficult to say, however, what impact their participation had on the outcome for the girls. No doubt they still would have been adopted, regardless of whether Maria and Daniel were in court. Perhaps the process would have been a bit slower, and perhaps the social workers would not have been quite as well informed, but none of the major characteristics of this case would have changed. Still, staying informed and involved was a huge comfort to Maria and Daniel, and it ensured that they would not experience any more horrible surprises. That in itself seems reason enough for them to have participated as they did.

One aspect of this case that is troubling is that Maria and Daniel were told that they could not become guardians of their youngest grandchild but instead must adopt her. As with many grandparents in this situation, Maria and Daniel hold out the hope that their daughter will eventually find the help she needs to deal with her personal problems and become the parent she should be for her daughters. Guardianship leaves open the door for this possibility, however remote, and it recognizes that these girls know Maria and Daniel as grandma and grandpa, not as mom and dad. Given the legal structure promoting permanency and the financial incentives for adoption, this case suggests that those motives rather than family considerations may have been the priority.

CASE 3: CHRISTOPHER GETS A “FOREVER FAMILY” (HOPEFULLY)

Fost-Adopt Mother: “A child in this situation has a right to know about his or her (birth) parents. They need to know their history. If you go to court, the more you know, and the better it is for the child.”

Highlights

- Christopher²⁹ entered foster care at age four when he was found wandering in the street while his mother was passed out in her car from using heroin. His mother, Dorothy, said she wanted help for her drug problem, but she was never able to follow through with treatment, and she never visited Christopher after his first month in care. Christopher’s father, also a heroin user, left the state shortly after Christopher was born and has had no contact with his son.
- Christopher has been with one foster family for the 21 months that this case has been open. He lives with his foster mother, Susan, and her two other children—one biological and one adopted. Susan wants Christopher to be a permanent member of her family, but she would prefer to be his legal guardian until he is old enough to understand and commit to being adopted. However, she has been told by Christopher’s social worker that in order to be able to terminate Dorothy’s parental rights the plan must be for adoption.
- When he came into care Christopher was described by his social worker as being “unsocialized,” and he was extremely delayed developmentally. Susan very quickly arranged for the necessary evaluations, enrolled him in Head Start, and started him in counseling and speech therapy. The court reports describe her and her efforts in the most glowing terms, stating that Christopher has thrived under her excellent care and that she has been instrumental in his development. Still, he is a very difficult child to parent, and he has a long way to go.
- Susan began attending court simply to observe the proceedings and to gather as much information as possible for Christopher when he is older. She had a cordial relationship with Dorothy until the time of the 12-month review when the social worker told Dorothy he was recommending a plan of adoption by Susan. At the trial that followed, Dorothy objected to Susan

²⁹To protect the privacy of case study participants, all names and other identifying information used in these cases studies are fictitious.

being in the courtroom and Susan was asked to leave. Christopher's attorney advised Susan to apply for *de facto* parent status, and she advocated for her at the *de facto* hearing. The court assigned Susan a lawyer, but she has had little contact with her, and she has never received any court reports.

- Impact of caregiver participation: To date, Susan does not believe she has had an impact on the proceedings, because she did not speak in court, and because "really, no decisions have been made in this case since the six-month review." She does believe it was important for her to attend, however, so she can have Christopher's "history" to share with him when he is older. In addition, the case is still open, and since she now has *de facto* parent status she may be more involved in future hearings.

Case History

Susan Wilson is a divorced, Caucasian woman in her mid-forties. She lives in a suburb of a Northern California city with her biological son (age eight), her daughter (age nine) who was adopted from foster care this year, and her foster son Christopher (age six). Susan is a college graduate who works full time as an events coordinator for an international corporation. She has a great love for the arts and cultural activities. Although her income is modest, she travels to Europe several times a year for work, and she enjoys that she is able to take the children with her on these trips.

Susan chose to become a foster parent after her divorce because she wanted to expand her family and she knew there was a great need for families for school-age children. She also had a close friend who was a foster parent, who had encouraged her to become a foster parent. At the time, she was open to providing foster care or to adopting, depending on the needs of the child. She was licensed through a private foster family agency (FFA). After her daughter's adoption she switched to a different FFA. This was not because of any problems with the current agency but because the new agency paid a higher foster care rate, and as a single parent she could use all the financial help she could get.

The case of Susan's daughter, Janina, was fairly straightforward. As an infant, she had been abandoned by her parents. There was no likelihood of reunification with her grandmother with whom she had been living, and no relatives were available for guardianship or adoption. Susan would have liked to attend court for Janina's case, but the social worker discouraged her from doing so. Her concern, she said, was that the grandmother, who did attend court, was mentally ill. The social worker suggested it was best for Susan not to attend so that she would not have to

chance an unpleasant encounter with the grandmother. Susan did, however, decide to attend the hearing for the termination of parental rights. At this point she knew she was going to adopt Janina, and she felt that it was important for her to attend so that when her daughter was older she could tell her exactly what had happened. She sat quietly at the back of the courtroom, and the grandmother never even noticed she was there. Susan noted, "A child in this situation has a right to know about his or her (birth) parents. They need to know their history. If you go to court, the more you know, and the better it is for the child." Susan also believes that children should have access to their court reports, or if they are very young their court reports should be saved for them, so that they can have a better understanding of their history when they are older.

Christopher's case was more complicated than Janina's. He was removed from his mother, Dorothy, at age four after he was found wandering in the street by a neighbor, while his mother was passed out in her car. Dorothy had been investigated by child protective services about three months earlier when staff at a methadone clinic reported that Christopher had bruises and a split lip, but Dorothy said he had fallen, and the case went no further. Dorothy admitted to using both heroin and methadone, but she said she wanted treatment, so Christopher was placed in foster care with Susan and reunification services were ordered for Dorothy. However, Dorothy stopped visiting Christopher after the first month, and she was unable to follow through with her treatment program. Dorothy came from a well-to-do Chinese family and had two older, married siblings who were approached as possible adoptive homes for Christopher. However, both of these siblings were in their late fifties and childless, and they felt they were unable to parent a four year old, especially one with as many behavioral problems as Christopher had. (Both families continue to have regular visits with Christopher at Susan's home.) Christopher's father, who was Caucasian, was also a heroin user and had an extensive criminal history. He was from another state and had returned there shortly after Christopher was born.

When Christopher was placed with Susan, he was described by the social worker as "unsocialized." He was not toilet trained, he had severe speech and language delays, and his behavior was out of control. It was suggested that he might have fetal alcohol syndrome, but it was actually not clear whether his delays were biologically based or due to neglect and lack of stimulation. Susan immediately got to work, shuttling him around for various evaluations, enrolling him in Head Start and speech therapy, and getting him started in therapy with a psychologist as

well. By the six-month review, the county social worker noted that Christopher had “made tremendous strides.” He described Susan as “instrumental in his development,” stating that “she is warm and nurturing. . . sensitive to his needs, and knows how to access the appropriate services for him,” and that life with Susan’s family was “stable, structured and stimulating” for Christopher. Throughout the case, the social worker’s reports referred to Susan in only the most glowing terms, at one point stressing that she had “been instrumental in the development of this case.”

Christopher was not an easy child to parent. He required constant supervision, structure, and clear and immediate consequences for misbehavior. He had trouble articulating how he felt, so he acted out instead. Still, he was charming and funny and the whole family loved him. Susan felt sympathetic to Dorothy and her problems, but as she began to see Christopher blossoming as a result of her interventions, she came to believe that Dorothy’s problems would make it impossible for her ever to parent Christopher effectively. Susan was not sure that adoption was the best thing for Christopher, however. At first, she felt more comfortable with the idea of guardianship, because it seemed as though Dorothy wanted to continue to be a part of Christopher’s life. Later she came to believe that Dorothy was so unreliable that it would be best for Christopher if her parental rights were terminated. Still, Susan preferred to be Christopher’s guardian for at least a few years before he was adopted. She believed that he was almost old enough to truly understand what adoption meant, and she wanted him to be a full participant in the decision to be adopted, as Janina had been with her adoption. Susan already knew that Christopher would be a part of her family forever, but she wanted him to be committed to being a part of their family before they finalized the adoption. The social worker informed her, however, that Dorothy’s parental rights could not be terminated unless there was a plan for adoption. Susan agreed that she would adopt Christopher when it came time to terminate parental rights. Throughout this case, though, her desire was to delay the adoption until he was older.

For the most part, Susan felt that her relationships with the social workers on Christopher’s case were excellent. At any given time, she dealt with two social workers—one from the county and one from the FFA—but this was not a problem. Her only negative encounter was with the first county worker, who at Dorothy’s request wanted to place Christopher with Dorothy’s neighbor (the one who had found Christopher wandering in the street when Dorothy was passed out). However, this neighbor, a single man, had never had any meaningful interaction

with Christopher or Dorothy before that incident, and Dorothy did not even know his last name. Susan felt strongly that it would not be in Christopher's best interests to be moved again to live with someone he did not know, but the social worker told her "you have no say in this case—you are just an emergency shelter." It was fortunate, Susan felt, that this worker was replaced by a new one shortly thereafter, and the new worker did not pursue the placement change. The new worker (who remained assigned to the case until it recently transferred to an adoptions worker) contacted Susan regularly by phone and kept himself well informed about Christopher's progress. Susan felt that her input was valued by this social worker, but that was in part because she "made the effort to have a good working relationship" with him.

Court Participation

Susan received timely written notice for all hearings in this case. Over the course of a year she attended seven hearings, beginning with the six-month review. Three of these hearings were continued.³⁰ Her intention was to simply observe the proceedings in order to have this "history" for Christopher when he was older. In the beginning, she was not completely certain what to expect in court, and at times she was confused about what had actually happened, but if she had questions she called Christopher's attorney, and once she telephoned the trainer for this research project for further information. Susan dressed rather casually for court—typically she wore jeans—but since she sat in the back of the room and never spoke this may not have been noticed. Susan did not experience any logistical problems in getting to court. Her office was within walking distance of the courthouse and she had flexible work hours. Her children were all at school, so childcare was not an issue.

Susan typically had to wait about an hour in the hallway for each hearing. At the six-month review hearing, she had a cordial conversation in the hallway with Dorothy, and Dorothy thanked her for taking good care of Christopher. Susan gave Dorothy several photographs of Christopher she had brought for her, and Dorothy seemed very grateful. In the courtroom, the court officer announced Susan along with the parties to the case, but the judge did not acknowledge her. She sat at the back of the courtroom, while the others sat at the main table. Susan quickly became frustrated sitting in the back of the courtroom, because the social worker and Dorothy's attorney gave the judge incorrect information about

³⁰ The first continuance was for a settlement conference. The second was because the birth father had not been noticed of the .26 hearing, and notice needed to be published in the newspaper. The third continuance was because the birth father's notice had been published in California rather than in the state where he lived (although it was known since the beginning of the case that he had returned there).

Dorothy's visitation. She had only visited with Christopher four times—all in the first month he was in care—but the attorney and social worker seemed to believe she had visited regularly. Susan did not say anything because she “was not a part of the procedure . . . I would have had to interrupt.” However, she thinks that the case would have proceeded to termination of parental rights much more quickly if it had been known that Dorothy had not visited Christopher at all for the past five months.

The next hearing was the 12-month review. During the previous six months, Dorothy had dropped out of her drug treatment program and had not visited with Christopher at all. Just prior to the hearing, the social worker informed her that he was recommending termination of services, with a plan of adoption for Christopher. This time Dorothy would not speak to Susan, and although she accepted the envelope of photographs Susan had brought, she turned her back on Susan and she did not open the envelope. In the courtroom, Dorothy's attorney stated that Dorothy would not submit to the termination of services, and she asked that visitation with Christopher be reinstated. Again, Susan sat in the back and observed the proceedings without saying anything. The case was continued for one week so that a settlement conference could be held. By the next hearing, Dorothy had entered another residential treatment program, and she was not allowed to leave to attend court. She was still contesting the termination of services, and a trial was set for three weeks later.

Susan was a few minutes late for the trial, and this may have affected what occurred when she arrived. As she entered the courtroom she had to announce who she was, and at this point the judge asked if anyone had an objection to her being there. (He had not done this at the previous hearings.) Dorothy was visibly angry that Susan was there, and her attorney objected to Susan's presence, noting that she was not a *de facto* parent, so the judge asked Susan to wait outside. He said that someone would come out to talk to her as soon as the hearing was over.

Susan was quite angry about being excluded from the proceedings, since she knew she had a right to be there. She was determined to stay there until someone spoke with her about this, and she ended up waiting in the hallway outside the courtroom for almost two hours until Christopher's attorney came out to speak with her. The attorney told her that a hearing to terminate parental rights had been set for five months from then. She suggested that Susan apply for *de facto* parent status, and she explained the process for doing so. Susan immediately went to the court clerk's office and filed the paperwork. She was called back one month later for the *de facto* hearing, and she was surprised to find that Christopher's attorney was

there. In fact, the attorney pled Susan's case for her, stating that Susan planned to adopt Christopher. Susan's *de facto* status was granted. As important to Susan was the fact that Christopher's attorney was now advocating for her as well.

At the .26 hearing Susan again sat quietly in the back of the room. After everyone had been already called into the courtroom, the case was passed over for another case. The court reporter looked over at Susan and asked who she was. She was then asked to leave the courtroom until Christopher's case came up again. When the case was re-called, it did not appear that the court officer was going to call Susan back in. Christopher's attorney went out into the hallway to do so, and Susan returned to the back of the courtroom. The court officer noted for the record that Susan was the foster mother. Christopher's attorney added for the court that Susan was the *de facto* parent (*de facto* status had been granted by a different judge). The judge asked Susan if she had an attorney and since she did not, the judge appointed one for her.

Dorothy did not attend the .26 hearing. She had left her earlier treatment program and had entered yet another program. Her attorney filed a petition asking that Christopher be moved to live with Dorothy, since this new program accepted mothers and children together. The petition was denied because Dorothy had not signed it, and the judge noted that it would be "an uphill battle" for Dorothy to convince the court that visits with her would be in Christopher's best interest at this point. The hearing was continued for one month.

When Susan returned one month later, she had been told to expect that parental rights would be terminated. Her adoption home study had been completed, and she was prepared to move forward with the adoption, even though she still preferred guardianship. For the first time, Susan was invited to sit at the main table in the courtroom with her lawyer. Unfortunately, the case was continued for another month because the notice to the birth father had been placed in newspapers in California rather than in the state where he lived. Twenty-one months since Christopher entered care, and 20 months since he last saw his mother, his fate is still unresolved. Susan is hopeful that next month Dorothy's parental rights will finally be terminated.

Conclusions

Susan does not believe that her attending court had any impact on the proceedings, since she did not speak in court, and because "really no decisions have been made in this case since the six-month review." Still, she believes it has been important for her to be there in order to have as much of Christopher's "history" as possible,

to pass along to him when he is older. In addition, the case is still open, and since she now has *de facto* parent status she may be more involved in future hearings.

As is true of all the other caregivers studied, Susan spent hours at the courthouse waiting for hearings, several times only to have the hearings continued for reasons that could have been avoided. (In her case, continuances were due to a lack of notice and then improper notice to the birth father. In other cases, hearings were continued for lack of proper notice, social workers' reports not being available, and attorneys being unable to attend court that day.) Waiting around in such instances is a waste of time for everyone involved, although attorneys, judges, and social workers seem to accept it as a matter of course. Most of these problems were known hours, if not days, before hearings were scheduled to begin. In some instances, it may have been possible for social workers to inform foster parents (and birth parents) in advance that they did not need to be there because the case would be continued.

Susan is the only caregiver of those studied who did not attend the Caregivers and the Courts training but instead contacted the trainer for a copy of the pamphlet provided during the training. Susan never spoke in court, because to do so would have meant interrupting the proceedings. If the judge had asked her if she had anything to say, she would have told him at the first hearing that Dorothy had not visited Christopher for five months, and she believes this would have speeded up the course of the case. It is unclear whether attendance at the training would have resulted in increasing Susan's comfort level in court to the point where she would have told the court the correct information about Dorothy's visits without prompting from the judge. However, she says, "In a way I'm glad this case is dragging on because it gives us more time to prepare Christopher for being adopted." If she were to do things over, she would have requested *de facto* status earlier in the case. That way, she says, "I would have had a lawyer, I would have been able to sit at the table, and I would have been a party to the case." As a party to the case, she could have informed her lawyer when she heard incorrect information about visitation being given to the court. In addition, she would have gotten copies of the court reports, which she could save for Christopher to have when he is older.

Susan will not be taking any more foster children, at least for the near future. She would have liked to have one more daughter join the family, but "Christopher requires a lot of our energy and attention." Perhaps when the children are older and Christopher is more stabilized she will provide a home for one more child. If she does, she says she will definitely request *de facto* status early in the case.

CASE 4: A FULL HOUSE

Foster Mother: “If I’m a frustrated person, it’s because the system has created that.”

Highlights

- Jackie³¹ and Steve have been foster parents for nine years. They have two biological children and one adopted child. They recently became legal guardians of their four current foster children, ages 10 to 16.
- Jackie is a tireless and resourceful advocate for her children. Her strong opinions and her willingness to go directly to her children’s attorneys or to the court when she disagrees with case plans have earned her the reputation of being “not very social worker friendly.”
- Jackie attended 10 court hearings over the past eight months and spoke at every one. The judge routinely asked her if she had anything to say. She felt supported by the judge, and she views her as a strong advocate for children and foster parents.
- Jackie applied for and was granted *de facto* parent status for all four children in order to have access to court reports. From then on she was invited to sit at the main table during hearings instead of in the back of the courtroom as she had done before. This was an intimidating but highly important change for her.
- Impact of caregiver participation: Jackie’s participation in court in one case appears to have influenced the judge to push for guardianship, and therefore permanence, faster than the social worker recommended. In another case, her letters to the court seem to have influenced the decision to grant guardianship to Jackie and Steve rather than pursue placement with relatives with whom the children had had no contact. The judge and the children’s attorneys listened to and valued Jackie’s opinions and they openly acknowledged the value she provides, which helped her to feel supported in her role as a foster parent.

Case History

Jackie and Steve Fisher are a Caucasian couple in their mid forties who live in a large Northern California city. Jackie loves children, and children love her. She

³¹ To protect the privacy of case study participants, all names and other identifying information used in these case studies are fictitious.

had a home daycare business for many years, but more recently she has been a “stay-at-home mom.” Hers is the house where all the kids on the block gather. There is guaranteed to be something fun going on there—crafts, games in the backyard, huge holiday celebrations, and her yearly tea and dress-up party for all the children in the neighborhood. When she’s not busy shuttling her five children currently at home around to soccer games and various appointments, she loves to do crafts of her own. In her “spare time” she is active on the board of her county’s foster parent association. Steve owns his own construction company and spends his spare time in his wood shop. He’s a friendly guy, who will happily talk about the grain, color, and strength of various types of wood, and he spent the last few months (when he wasn’t working or remodeling the bathroom) hand-making about 50 wood and ceramic trivets for Christmas gifts.

Jackie is the kind of person who just needs to have lots of children around. She started doing foster care when her two biological daughters, who are now away at college, were pre-teens, and busy with their own activities. Over the past nine years the Fishers have had 15 foster children, mostly school age and older. Jackie loves babies and would like to do foster care for medically fragile babies, but Steve prefers to have older children. He’s “done getting up in the middle of the night” for babies—at least until he and Jackie have grandchildren. Currently, Jackie and Steve have an eight-year-old son, who was adopted from foster care, and four foster children—Deborah, Kristen, Alisa, and Antonio—who range in age from 10 to 16. “We’re full now,” says Jackie, and at the close of this case it appeared that this family configuration would be the same for at least the next few years.

Sixteen-year-old Deborah has lived with the Fishers for three years, since her most recent removal from her birth mother. Her mother, who is developmentally delayed, had more than 30 referrals to child protective services for neglect, and her six children were removed from her once before this most recent entry into care. Deborah’s father’s whereabouts are unknown. In addition to experiencing severe neglect throughout her life, Deborah was also sexually abused by one of her mother’s boyfriends. Deborah’s three youngest siblings have been adopted by a family that wishes to have no contact with other siblings, so Deborah will most likely never see them again. The next oldest brother is in a foster home and Deborah visits with him regularly. He was originally placed with the Fishers, but his violence and other behavioral problems made the situation unsafe for the other children in the household, so he was placed in residential treatment for about a year, and now he is with a family where he is the only child. Deborah’s older

sister chose to move to Maryland to live with an aunt. Deborah would have liked to be with her sister, but the aunt said she was unable to take her because of her anger, her need for intensive therapy, and behavioral issues such as stealing and shoplifting. Deborah's mother's parental rights were terminated fairly quickly, and the case plan was for her to remain in long-term foster care until she was 18.

Kristen, age 15, has been with the Fishers for two years, since she was removed from her father due to allegations of sexual abuse. The allegations were never substantiated, but during the course of the investigation her father decided he wanted to have no more contact with her. Her mother had abandoned her as a baby. Early in the case, Kristen's father requested that she be placed with his sister, however Kristen preferred to remain with the Fishers. The social worker's report noted that the Fishers had "provided her with a safe, structured and stable home" and had "taught her new things about life." The Fishers were willing to have Kristen remain with them indefinitely; therefore, her case plan was for her to remain in foster care until she is 18.

Siblings Alisa (age 11) and Antonio (age 10) have been with the Fishers for two and a half years. They were removed from their paternal grandmother's home after Alisa was sexually molested and Antonio was physically abused by their father, who also lived in the home. Their mother's contact with them had been sporadic throughout their lives, due to her drug use and mental illness. Reunification services were not provided to the mother or the father, although the mother has continued to have occasional supervised visits with them. Alisa and Antonio have an aunt and uncle in Guam who expressed an interest in adopting them, as did their maternal grandparents; however, none of these relatives have written to or attempted any contact with them since they were toddlers. Alisa and Antonio's original case plan recommended that they remain in foster care while their options for adoption by relatives were investigated.

Jackie is a fierce advocate for her foster children. As Steve says, "She never gives up the ship." She knows the system, has a strong support network of other foster parents, and is adept in obtaining resources. As Alisa and Antonio's social worker put it, she "fights for the children like they are her own. She has stated that she will protect the children from persons wanting to harm them or use them for their own ends. She demands the best from the children's therapists and teachers and has shown genuine concern for their welfare." Jackie also has clear opinions about what should happen in all of the cases under her care. While social workers appreciate her resourcefulness and commitment, they don't necessarily appreciate

her disagreeing with their case plans. Jackie has called the children's attorneys several times when she did not agree with the social workers' recommendations, and in each case the attorney agreed with her and was successful in getting the recommendation changed. This did not help Jackie's relationships with her children's social workers, who she believes view her as "an annoyance." She has been told by social workers and their supervisors that she has a "paternal attitude" (which apparently she should not have) toward her foster children and that she is "not very social worker friendly."

Court Participation

Jackie attended all of the court hearings for their adopted son, whom she and Steve planned to adopt right from the beginning of his placement with them. They were encouraged by their son's attorney to attend court, and in fact the attorney requested *de facto* parent status for them early in the two-year process. The judge denied the motion, however, stating that it was "not necessary." Still Jackie felt welcome in court and appreciated being informed about the details of the case as it progressed.

Jackie did not attend court for any of her foster children until about two years ago. She started attending court "with this current group of children" because she "wanted to be a part of the process instead of relying on social workers for information that was not forthcoming." Early in Deborah and Kristen's placements with the Fishers, Jackie realized that they would most likely be with the family until adulthood. Therefore, she wanted to be involved in any decision making regarding the girls and to be fully informed about their case plans. In Alisa and Antonio's case, she was concerned about the possibility of them being adopted by relatives with whom they had not had contact for the past nine years and with whom they said they did not want to live. In her county, social workers typically do not attend court but instead are represented by a court liaison and the county attorney. Jackie was concerned that critical information routinely is lost in the court process because no one who actually knows the children is there. Jackie believes that the social workers did not want her to attend court, but she said, "they have adjusted to me." And, in fact, social workers have taken advantage of her participation by calling her to ask her what happened in court.

Relationships with social workers are an ongoing source of frustration for Jackie because, in her opinion, they don't maintain enough contact with her and with the children; they don't provide her with enough information (or correct information)

about her foster children's cases; they don't take her knowledge, opinions, and expertise into account in case planning; and they don't always seem to have the children's best interests in mind. Jackie describes her relationships with social workers as "somewhat adversarial" and says, "If I'm a frustrated person, it's because the system has created that." Attending court, for her, provides a mechanism to speak directly to the judge to try to circumvent problems and have input into decision making. In Deborah's case, in particular, Jackie's strong opinions led to serious problems with the social worker. Early in the case, the social worker's reports referred to the Fishers in the most positive terms. She stated that Deborah had difficulty in trusting people, that she "underestimates her foster parents' level of commitment to her," and that there have been "trying times" in this placement. Still, "the family has been able to work through them," and Deborah "has shown positive growth in her foster home, and continues to benefit from the stability and encouragement she receives." Recently, however, Jackie and the social worker disagreed about whether visits with a maternal aunt were appropriate for Deborah, and they were not able to resolve their disagreement. (Jackie thought the visits were traumatic and unhealthy for Deborah and that the social worker seemed to be more of an advocate for the aunt than for Deborah.) The social worker noted in her most recent report to the court that "communications have worsened between this worker and the foster mother," and as a result "the foster mother has chosen to take her own course of action." The course of action Jackie had chosen was to meet with the social worker's supervisor and demand that she be replaced on this case by another social worker. The social worker commented in her report that although Jackie "must be recognized for providing (Deborah) with a stable home and giving her many new life opportunities," she has also "modeled to her that professional adults don't try to resolve their problems by talking them through in a joint effort." She argued that "having a disagreement with a professional doesn't mean she can be gotten rid of." Ultimately this social worker did remain on the case. However, since the Fishers were recently able to obtain legal guardianship of Deborah they, not the social worker, will now be the guiding force in what happens in Deborah's life.

Because the Fishers have four foster children, Jackie has attended quite a few hearings over the past few years. Until very recently she attended by herself, since Steve could not afford to miss work. Steve did attend all of the *de facto* status and guardianship hearings that occurred recently, as an observer. Childcare was not a problem, since all of the children were in school; however, Jackie spent many, many hours waiting in the lobby for hearings to be called.

“About 95 percent of the time” Jackie received written notice of scheduled hearings. She received the social workers’ recommendations “sometimes, not consistently,” but she always called the social worker if she had not been informed of the recommendations prior to the court date. About four months ago, Jackie and Steve applied for and were granted *de facto* parent status for all four of their foster children. The reason they applied was to have access to the court reports so that Jackie would have an accurate understanding of the social workers’ recommendations and so she would be prepared for what occurred in court. She cited in particular a situation where the social worker recommended that Deborah remain with the Fishers indefinitely, without asking them if they would be willing to keep her indefinitely. Although they were ultimately willing to do so, Jackie felt put on the spot when the judge asked her in open court if Deborah could remain with them and she had not had an opportunity to think about it or discuss it with Steve.

Jackie believes that after two years of going to court she has a good understanding of the legal process and the various types of hearings, but it has been a “self-education process.” When she has questions, she refers to the training materials she received as part of this project, and occasionally she will call her children’s attorneys if she is unclear about what will happen at a particular hearing. All of the children’s attorneys have been receptive to her calls, seem to value her input, and appear to like her very much. Once, after Jackie had left the courtroom, Deborah’s attorney said, “I want her to be my mom!”

Over the course of this study, Jackie was observed at 10 hearings, 6 of which Steve also attended as an observer. Jackie spoke at every hearing, without notes, but having rehearsed what she wanted to say. Steve did not speak, except to say “thank you, your honor” at the guardianship hearings. Jackie’s statements tended to be somewhat emotional, and she was often close to tears. She pointed out how much she and Steve loved the children, that they were committed to them and they considered them a part of the family. She stated their desire to become legal guardians of the children and expressed concerns regarding what resources would still be available to them if their status changed from foster care to guardianship. She also noted at several hearings that she and Steve considered themselves “a bridge” to the biological relatives of their foster children and that they would do everything they could to help the children maintain those relationships. Jackie was always appropriately dressed for court, stood while addressing the judge, and behaved in a very professional manner, despite being teary-eyed. She is obviously very invested in the well being of the children in her care, and attending court is

somewhat stressful for her emotionally. At every hearing that was observed, the judge spoke to Jackie directly and asked her if she had anything to say, and it was clear that Jackie had been there before and that the judge knew her. The judge's comments to Jackie were very supportive. At one hearing, for example, she said, "Thank you for all your hard work. It's wonderful to see these kids doing so well. We'll be seeing you again soon." Jackie feels that she has developed "a connection" with the judge over the course of the past two years. She feels very supported by the judge's decisions, especially since several times the judge has agreed with Jackie's recommendations over those of the social worker. Recently Jackie and her foster children brought the judge a bouquet of flowers and a note of appreciation.

Obtaining *de facto* parent status in this court changed the tenor of the proceedings in a way that was not seen in other counties or even in the other department in this county. At each of the *de facto* hearings, as soon as *de facto* parent status was granted the judge asked Jackie to move from her seat at the back of the courtroom and to come to sit at the main table. She asked if she had seen the most recent court report (which she had not), and then called a recess so that Jackie would have time to read the report. Later, Jackie commented that being at the main table was "a little intimidating," but when the judge asked for her comments on the court reports she was clear and concise and did not seem to be intimidated at all.

Over the course of the past year, the Fishers decided that they wanted to assume legal guardianship of all four of their foster children. All four children decided they wanted to be permanent members of the Fisher family and for Jackie and Steve (whom they all call "mom and dad") to be their guardians. Kristen's case was the most straightforward at this point because her birth parents were no longer in the picture, and her only other close relative—the paternal aunt—approved of the guardianship. Sadly, the day she came to court for the scheduled guardianship decision the hearing was continued because the social worker had not submitted a report, and neither she nor her supervisor could be reached by phone. (It was later determined that she had simply forgotten to submit it). Kristen broke into tears when she heard this and cried the entire time she was in the courtroom. The judge (*pro tem*) was sympathetic and extremely apologetic, and ordered that the social worker appear in court the next day with the report in hand. Ultimately, the guardianship was approved, albeit with this extra distress for Kristen.

Deborah's case was complicated by the tense relationship between Deborah's social worker and Jackie. At the permanency planning hearing the social worker

stated that she approved of guardianship as a long-term plan but that she felt that Deborah's case should remain in foster care until "the communication issues are worked out" between her, Jackie, and Deborah's aunt. (At this point Jackie was refusing to speak to the social worker and had had a meeting with the head of the department to ask for her removal from the case.) The judge then asked Jackie for her comments, and she stated emphatically that Deborah wanted guardianship (Deborah had also told her attorney this) and that she and Steve wanted guardianship to be granted as soon as possible in recognition of Deborah being a permanent member of their family. Jackie did not address the issue of communications with the social worker. The judge seemed to take her statement into account. She asked the social worker how long it would take her to complete her report for the guardianship hearing, and when the social worker said 120 days, she responded very strongly, saying, "You're telling the court you need four months to do a 10-page report? We're talking about the life of a child who needs permanence . . . I want guardianship to occur. If there are other problems that need to be worked out they can be worked out in guardianship . . . I expect that report to be available in 60 days." Sixty days later, they returned to court and guardianship was granted. The judge commented that she was "thrilled with the progress (Deborah) has made" and she granted the guardianship "with pleasure."

In Alisa and Antonio's case, there were five possible options for placement. Their maternal grandmother opposed guardianship and stated that she wanted to adopt them, as did their paternal aunt and uncle. However, none of these relatives had had any contact with them since they were babies. Their paternal grandmother wanted them returned to her, but she denied that any abuse had occurred when they were living with her. Their mother had come into their lives again after they entered foster care, and she said she wanted them returned to her. However, her visits with them were sporadic and she was emotionally unstable. Although Jackie had invited her to visit with the children at her home (including an invitation for Thanksgiving dinner), more often than not she did not show up for the scheduled visits. Jackie and Steve had grown to love the two children very much and felt that they had blossomed as a part of their family. Antonio, in particular, had come to them with a deep-seated rage that often was expressed in violent behavior. As Jackie noted in a letter to the court, "To say that the last two and a half years have been extremely challenging would be an extreme understatement. He has forced us to completely reevaluate how we parent him, and he has taught us to be better parents . . ." She continued, "Through all the struggles, anger and confusion, a trust and love relationship was formed between (Antonio) and the entire family," and "We genuinely feel that the relationship that we have developed with him is

his first relationship of this type.” For each child, Jackie wrote a letter to the court that succinctly outlined her concerns regarding each of the potential plans for placement with relatives. In her letters she stated that while she supported and would facilitate continued contact with their relatives, the children are not “possessions to be passed around among relatives” and that they “do not need to start over with new people who have no real relationship with them . . .” It seems that the judge (*pro tem*) must have taken her letters into account, because while the maternal grandmother was present at the guardianship hearing the judge did not address her or ask her to speak. She said directly to Jackie, “With great pleasure we are granting guardianship. I think the children are in a wonderful home and are thriving. Thank you for the wonderful home you are providing.” At this point the grandmother left the courtroom without ever having her presence acknowledged by the judge.

All four children’s cases remain open at Jackie’s request. Thus they will continue to receive health and mental health services and the Fishers will continue to receive financial support for them. Deborah will be the first to graduate high school, and she is already making plans for college. When she leaves home, Jackie and Steve will most likely accept another foster care placement.

Conclusions

Jackie is an active and forceful advocate for her children in all areas of their lives, including court, and this advocacy has clearly made a difference for them. Deborah, who experienced so much neglect, abuse, and instability through most of her life, now has a permanent family and a base from which to plan for her future. Kristen, who was abandoned by her parents, has a mom and dad who look out for her best interests and have gotten her the therapeutic help she needs. And Alisa and Antonio have a family that they know will stick with them, no matter what. In addition, Jackie has ensured that all of the children will have continued contact with their birth relatives. It is unfortunate that Jackie’s advocacy, while seemingly welcomed by social workers in some arenas (for example, in finding effective mental health services), is not as welcome in case planning and in court.

Jackie’s frequent presence in court provided a level of comfort and familiarity (she with the court and the court with her) that most likely would not occur with foster parents who are in court less frequently. The judges’ and the children’s attorneys’ support and admiration for Jackie were impressive. They listened to and valued her opinions, they openly acknowledged the value she provides as a foster parent, and they welcomed her presence in the courtroom. Both the children’s attorneys

and the judges seemed to have taken her statements and letters into account when making recommendations or decisions regarding the children, and this appears to have benefited the children greatly.

CASE 5: SAVING BABIES

Foster Mother: “It’s so hard... When I heard that (the birth mother) was doing okay, my heart sank because I thought I might lose him (the fost-adopt child).”

Highlights

- Caroline³² and Jack Landers are a Caucasian couple in their mid-forties who chose foster care as a route for adopting babies. Two brothers, Andre and Joshua, were placed with them at birth, one year apart. They immediately renamed Andre “James.”
- James and Joshua’s birth mother, Kate, was homeless, developmentally delayed, and had mental health and substance abuse problems. She was a former foster child who had had her first child at age 16. Her two oldest children lived with their paternal grandmother, due to Kate’s history of severe neglect. She was briefly offered reunification services for James, and then her parental rights were terminated. Joshua’s case was designated a reunification “bypass” and parental rights were terminated six months after he entered care. James and Joshua’s father was also homeless and a substance abuser. He was hit and killed by a car about six months after James entered care. Both James and Joshua are expected to be adopted by Caroline and Jack.
- Initially, Kate had regular visits with James and Joshua, which Caroline supervised. Caroline wrote reports to the court regarding the children’s development and visits with Kate, and she gave them to her FFA social worker. Although she believed they would be attached to the court reports, they never reached the court. These reports were quite detailed and professionally written but probably would not have had an impact on the case, which was clearly moving toward termination of parental rights.
- Impact of caregiver participation: Jack and Caroline attended court six times, along with the boys, Caroline’s parents, and the FFA social worker. They are an attractive, responsible, upper middle class family, and their FFA agency encouraged them to attend “so the judge will know what his options are.” Jack and Caroline did not speak in court and stated that they preferred to provide information to the court in writing. They believe their presence did not have an impact on the case, but they were glad to attend to show their commitment to the children and to observe the proceedings.

³² To protect the privacy of case study participants, all names and other identifying information used in these case studies are fictitious.

Case History

Caroline and Jack Landers are a Caucasian couple in their mid-forties who live in a Southern California city. They have been married 14 years and they had always planned to have children, so when they found themselves childless they decided to pursue adoption. They first contacted their county social services agency, but after they attended an orientation they did not feel comfortable proceeding with the county. To them, it seemed like the foster parents were “in it for the money.” Jack is quick to point out that he and Caroline are Christians, and he noted that they “wanted a better quality group” than they found at the county orientation. About six months later, Caroline saw an advertisement for a private foster family agency (FFA) that said they were “caring, and educating a new generation of caregivers.” The agency’s name and promotional materials implied a Christian orientation. This particular FFA places only babies under 24 months old or sibling groups under five years old, and they require that one foster parent stay at home full time to care for the child(ren). Caroline and Jack were impressed with the agency. They “liked that young children were being helped,” that the agency was “more strict in their guidelines and their training,” and that “they take a long time to match you to a child. You make a commitment so the child is not bouncing around.”

Caroline and Jack completed a five-month orientation and training process and were licensed by the agency. Several weeks later a newborn boy was placed with them for one day, but “a grandmother popped up,” and the baby was placed with her. A few weeks later, Andre arrived. Andre, whom Caroline and Jack immediately renamed James, was two days old and had been removed from his mother, Kate, at birth due to her mental health and substance abuse problems and because an older child was already a dependent of the court due to severe neglect. Kate had received no prenatal care, but James was apparently a healthy and full-term baby. Kate had been a foster child and in and out of group homes herself. She was also developmentally delayed and was homeless. Her husband, Larry, had similar problems and was hit by a car and killed the following year (possibly a suicide). Two older siblings, the first of whom had been born when Kate was 16, lived with their paternal grandmother, Martha, in another state; however, she had stated that she was unable to take any more children, particularly a newborn baby.

James’s grandmother contacted Caroline and Jack by phone very soon after James was placed with them, and right from the beginning she was supportive of them adopting James. They speak with her occasionally by phone and plan to meet in person eventually. It was she who gave them the family medical information and

who first informed them that Kate was pregnant again. James's brother Joshua was born one week before James's first birthday, and Caroline and Jack picked him up from the hospital when he was two days old. Joshua's case was established as a reunification "bypass," because Kate's parental rights had already been terminated for the older siblings, and her parental rights to James would be terminated the following month.

Caroline and Jack always intended to adopt, and thus their focus was much more on adoption than on reunification. In their words, "It seems like so much money is spent in social services like transportation and lawyer fees (for birth parents) when it should be spent for the child. We would like to take more (children). The stories just break your heart." Caroline, in particular, found it extremely difficult to think about losing any child placed with them. As she said, "It's so hard, even for the child we only had for one day. I still think about him. When I heard that (Kate) was doing okay, my heart sank because I thought I might lose him (James)."

Over the first year that James was with them, Kate had regular visits at the county social services offices, and Caroline supervised these visits. Caroline noted that Kate was very passive in her interactions with James and did not appear to bond with him in any way. Larry's visitation was discontinued early in the case because of threats he had made to abduct his children. Over the first year of James's life, Kate and Larry did not follow through with any aspects of their case plans. The county social worker's reports to the court noted very early on that James had bonded with Caroline and Jack, and she recommended that the permanent plan be for adoption.

Caroline and Jack have dealt with four social workers over the course of the two years since James was placed with them. One was their FFA worker, who visits them at least once every two weeks, and whom they have found to be very supportive. The other three were county workers—"two good, and one not so good." Caroline kept detailed logs regarding how the boys were developing, any illnesses, medical appointments, and so on. As she said, "There are so many details to keep track of. You get hypersensitive." She always offered to give copies to the county social workers. Two of the social workers "were glad to have it," but the adoption worker wasn't interested and has had no contact with Caroline since their initial meeting. Caroline got the sense that the adoption worker was actually "more concerned about the mother's feelings." She didn't seem concerned that "one of the children (an older sibling) was living under a bridge in

the cold.” Given her opinion of the county worker, Caroline felt reassured by the fact that the FFA social worker was so active on the case. As she noted, “I can’t imagine going through this without (the FFA agency) because the county is too difficult. (The FFA social worker) and her staff have made it comfortable where we could ask questions. It makes a huge difference.”

Court Participation

Caroline and Jack received regular written notices of court hearings. They attended court in both of the boys’ cases beginning with the six-month review for James and the jurisdiction hearing for Joshua. They attended, they said, because “(the agency) told us to go to court. It’s a policy...and it seemed like the right thing to do, especially for us being pre-adoptive.” The social worker commented that the agency likes to have foster-adopt parents attend court “so the judge will know what his options are.” To date, they have attended court six times—five times for James and once for Joshua. They have attended only to observe the proceedings and be a presence in court. In general, they say they prefer to provide information to the court in writing rather than have to speak in open court. The only time they did not attend court is when their FFA social worker told them it was not necessary—that was at the termination of parental rights for Joshua—because his attorney said the case would simply be set for trial at that hearing.

Jack stated that going to court was “pretty simple,” but Caroline noted that they were very nervous the first time and didn’t know where to sit or “who was who” in the courtroom (the social worker told them). They found the Caregivers and the Courts training most helpful in informing them how to dress for court and how to write a statement for the court. Despite training and the support of their FFA social worker, however, they did not always understand what was going to happen or what did happen in the courtroom. In particular, they were confused about the difference between a review hearing and a trial, and why cases were continued. Jack suggested that the court should provide an information sheet for each hearing “so you know what’s going to happen and all the possible appeals.” Their FFA social worker was always at court with them, though, and they found her to be helpful in providing information. They also found the boys’ attorney to be helpful and supportive. In their opinion, he was “a concerned person” who “rooted for” them because they took the time to go to court.

Logistically, parking at the courthouse was often a problem, and they needed to allow enough time to find a parking space. They spent a lot of time waiting for their hearings to be called, but their social worker waited with them and this gave

them an opportunity to chat. Caroline and Jack brought the boys to court with them, because Caroline's parents were the only people who had been approved by the agency to babysit, and they wanted to attend court too. In hindsight, Caroline feels it was "probably a good thing" that the boys went to court because "it put a face on the file. The judge saw the child."

At the two hearings observed for this case, Caroline, Jack, and Caroline's parents dressed well and professionally. This particular courtroom is large and imposing. All of the parties were announced to the court; the judge (*pro tem*), however, did not acknowledge the foster parents in any way. (Caroline noted that the regular judge on these two cases always smiles at them and they feel very comfortable with her.) They sat in the raised jury box, along with Caroline's parents, the social worker, and James and Joshua, so they were visible to all in the courtroom. Overall, they presented the picture of a stable, upper middle class, well-functioning family. Kate did not attend either hearing. James and the baby made some noise during the proceedings, but no one seemed to notice. No one in the courtroom looked at the foster family, and there was no indication that the proceedings had anything to do with them. Their social worker spoke in court once to answer a question that the attorneys could not answer. When the judge (*pro tem*) asked whether Joshua was a court dependent (at the termination of parental rights hearing for James), she indicated that Joshua's jurisdiction hearing had already occurred. His disposition hearing was held two weeks later. His case was then designated as a reunification "bypass" case and the .26 hearing was set for four months later.

Until Kate's parental rights were terminated, Caroline supervised Kate's visitation with the boys, which she found difficult to do, given that her and Jack's intention was to adopt. She had a hard time not stepping in when Kate would not comfort the baby when he was crying, and she felt that she was forcing James to interact with Kate when he just wanted to be with Caroline, whom he knew as "mom." Caroline kept detailed logs of the visits, which she provided to the FFA social worker. The reports tended to be neutral to negative. A typical statement was "She (Kate) spent half an hour with her attention on (James), watching but not really interacting with him while the baby slept in his carrier. She also held him for a little bit and then set him down and picked up (Joshua). I almost jumped up when she let the baby's neck fall back and did not seem to correct it quick enough...she continued to hold him with his neck hanging back rather 'borderline awkwardly' that made me a little nervous." Another time she noted, "I tried to sit in the opposite corner and read a newspaper, but I actually kept (James) away

from the trash can, played peek-a-boo, and otherwise played with him as he kept coming over to me.” She also commented in her reports on Kate’s strong body odor and she related the following not very complimentary anecdote: “At one point I sat on the floor trying to put (Joshua’s) shoes back on, and I looked on the inside rubber part of her (Kate’s) tennis shoe. Both shoes had written on them with a large, black felt marker, ‘f--- you.’”

Caroline also wrote two reports to the court, which summarized James’s medical information and development, listed dates of visits with birth parents, and briefly described the visitation. These reports were extremely professional in content and appearance and did not contain the negative references about Kate that were included in the visitation logs. She submitted both the visitation logs and her reports to the court to her FFA social worker, who did not attach Caroline’s reports to her own court reports. Hence, the court never knew that Caroline had submitted the information for the hearings.

Caroline and Jack seemed surprised to hear that Caroline’s reports were not provided to the court, but they indicated that their FFA social worker wanted all information to be funneled through her. They are also mentioned by name in a number of the court reports and court orders (which are available to birth parents), although theirs is supposed to be a confidential foster home. An *ex parte* order for Caroline and Jack to take the boys with them on vacation also included detailed information about where they would be staying.

Conclusions

This particular FFA agency encourages foster-adopt parents to attend court, apparently so that the judge can see them in comparison to the birth parents. While this can be seen as positive in the sense that it provides the judge with more information about the well being of the children, it also smacks of the type of “beauty contest” that birth parents’ attorneys worry about. Caroline and Jack say they attended court to show the judge that they were “interested and committed to the children.” They do not believe that their presence had any impact on the outcome of the boys’ cases, since they were confident all along that parental rights would be terminated and that they would be able to adopt the boys.

It is disturbing to note that Caroline’s court reports were not provided to the court, though she believed that they would be. Caroline was probably not the most appropriate person to supervise visitation since she and Jack wanted to adopt the boys, and perhaps this influenced the social worker’s decision not to include the

reports. Still, that was not her decision to make, and it kept information from the court.

Finally, the foster parents' confidentiality was breached by citing their names and other identifying information in court reports and court orders that could be seen by the birth parents. While it is unknown whether this practice is widespread, this one instance indicates that this is an area worth investigating.

CASE 6: A FAMILY STRUGGLE

Grandfather: *“We should be part of the team. Reunification is a team effort—the caseworker, the mother, the foster parents, and the courts. If you leave any element out, it’s going to make it more difficult, if not impossible.”*

Highlights

- Marjorie³³ and Richard Smith have been retired six years. They planned on spending their retirement years traveling and visiting with their grandchildren, but now they will be adopting two of those grandchildren—five-year-old Angela and four-year-old Tommy.
- Angela and Tommy were removed from their parents, Sharon and Mark (Marjorie’s son), after a violent fight that left both parents with black eyes. Sharon and Mark had a long history of domestic violence and drug use, and they had several guns in their home at the time of the children’s removal. Mark also had an extensive criminal history related to his drug dealing. The children had lived with their grandparents off and on since they were born.
- Mark did not comply with his treatment plan, and his reunification services were terminated 18 months into the case. Sharon was able to remain clean and sober for almost a year, but during most of this time the children lived with the Smiths. She relapsed about the time the children were returned to her for a trial visit. She did get clean and sober again for a while, but she did not seem to be able to handle having the children with her full time.
- Marjorie and Richard began submitting letters to the court just prior to the 12-month review, and they attended court as observers from the 12-month hearing on. They did so because they felt that the judge was not receiving important information about the case, namely that the children were still living with them the majority of the time, that Sharon was neglecting their health and safety, and that they were exposed to drinking, smoking, swearing, and other inappropriate activities by Sharon and her new boyfriend. The Smiths repeatedly requested that the children be appointed an attorney to represent them, but this did not happen until more than two years into the case.
- Impact of caregiver participation: This case has now been open for almost two and a half years, and reunification services were just terminated for

³³ To protect the privacy of case study participants, all names and other identifying information used in these case studies are fictitious.

Sharon two months ago, after an attorney was finally appointed for the children. The Smiths believe that if they had not submitted their many letters to the court the case would have been dismissed by the 18-month review, to the grave detriment of the children. The Smiths very much wanted to be part of the case planning, since they had functioned as parents to the children since their birth, but they feel they were denied that opportunity by the social workers on the case. In their opinion, sending letters to the court was the only way to make their voices heard.

Case History

Marjorie and Richard Smith are a Caucasian couple who live in a suburb of a Southern California city. Six years ago, Richard retired from a 36-year career as a department supervisor for a government agency. Marjorie has held a few part-time jobs, but her real career had been as a homemaker, mother, and grandmother to her four grandchildren. Marjorie and Richard had planned to spend their retirement years traveling, visiting family, and occasionally babysitting their grandchildren. Instead, they are adopting two of them—Angela (age 5) and Tommy (age 4). According to the Smiths, Angela and Tommy “came into our care actually from the day they were born,” long before they came under the jurisdiction of the court. From birth, they lived with the Smiths approximately 40 percent of the time. Marjorie recounted, “When (Angela) was a baby, (Sharon, their daughter-in-law) would call and say ‘come get this thing.’ ...I kept (Angela) most of her infant life. If there was a doctor’s appointment I took her.” Things changed for a while after Tommy was born because “(Sharon) didn’t want him attached to us like (Angela) was. But that didn’t last too long. She would say ‘come and get the kids before I kill them.’ We would pick them up and we wouldn’t hear from her until it was time to take them home—it might be a week, two weeks.”

Sharon and Mark (who is Marjorie’s son and Richard’s stepson) lived an unsettled and violent life. They both had substance abuse problems dating back at least five or six years, and they were frequently evicted from their housing. Sharon was also the victim of abuse and neglect as a child. Neither was employed regularly, and Mark was arrested and convicted several times for selling drugs, both before and after this case was opened. At times they lived in week-to-week hotel rooms, and at one time they were one of three families sharing a one-bedroom apartment where all the adults were using drugs. Mark and Sharon had frequent and violent arguments, especially when they were using drugs, and they openly kept guns in

their home. In addition to Angela and Tommy, Sharon had a seven-year-old daughter from a previous relationship who lived with her father but sometimes stayed with Sharon and Mark.

Angela was three years old and Tommy was two when the Smiths received a call from Sharon while they were away on vacation at a family reunion. The manager of their apartment complex had called child protective services after Sharon and Mark had had a “knock down, drag out” fight in which both of them had given each other black eyes. The children had been removed and placed at the children’s shelter and told, “Grandma and Grandpa will pick you up.” The Smiths drove nonstop to the shelter only to be told that they could not take the children home until a social worker inspected and approved their home. They were able to take the children home the next evening, but Marjorie says, “Even by the children just spending one night there, they had some tremendous nightmares for months.”

Richard and Marjorie were committed to doing whatever they could to assist their son and daughter-in-law in achieving sobriety and resolving their relationship problems so they could have the children returned to them. Several times they took Mark to enroll in substance abuse treatment programs, but he did not follow through with treatment. Just before the 12-month review they participated in a “family unity meeting” with Mark and Sharon, at which they agreed, according to the caseworker’s report, to “provide emotional support to (Sharon and Mark), to help them avoid substance abuse relapse and future domestic violence,” and to help them “in any reasonable way possible.” By the time of the 12-month review, Mark was back in jail for selling drugs, and at the 18-month review, reunification services were terminated for him.

While Mark was still in the picture, the Smiths were asked to supervise the children’s visits with him and Sharon (separately because of the domestic violence issue). Right from the beginning visits were inconsistent, because Sharon or Mark would call at the last minute and cancel. Sharon continued this pattern throughout the period that the Smiths had custody of the children. The Smiths said they continued to try to support Sharon in meeting her case plan goals throughout the case, and they always maintained contact with her. Marjorie noted, Sharon “is very open with us. She allowed us to read the social worker’s report. And, we work together...if she needs anything we’re the first people she calls.” The relationship does not always flow smoothly, however. At one point in the case when the children had been returned to Sharon for a trial visit, she became angry

with the Smiths about a letter they had written to the court. “She gets even by simply cutting off our visitation from the children,” said Marjorie.

Marjorie and Richard feel that by and large they were treated disrespectfully by workers in the system—“like paid babysitters.” When the children were first placed with them, they told the caseworker that all they needed was medical coverage for them, but “she said you couldn’t get the medical unless you take the other money. When we went down to the office the lady said, ‘we all know what you’re here for.’ She already had the papers filled out so we would get the money.” When the children were removed again two years later, the social worker once again told them they would receive foster care payments for the children, which the Smiths interpreted as a suggestion that they “were in it for the money.” The Smiths wanted to be equal partners in the case planning process and they felt that they had a right to expect this. They were intimately aware of the needs and development of the children, and they had access to information about Sharon and her activities that was hidden from the social workers on the case. Marjorie kept extremely detailed, almost daily notes of information relevant to the case. For the most part, however, the social workers seemed uninterested in anything the Smiths had to say.

Court Participation

The Smiths did not consistently get written notifications of court hearings addressed to them, but the notices to their son came to their home (he had no permanent address, so he used theirs). Thus, they were able to stay informed as to when hearings would occur. They did not begin attending court until the 12-month hearing, because they had been discouraged by the social workers from doing so—“They said there was no need to go, no point in coming because the children were too young. We were basically told that our presence wasn’t needed and that it didn’t concern us.” They began attending at the 12-month hearing, “based on the training we received (for this project),” and they have attended almost every hearing since. The Smiths believe they have a fairly clear understanding of the court proceedings, based on the Caregivers and the Courts training and their actual experiences in court. Marjorie complained that the county had provided them with no training whatsoever—“We wasn’t told diddly-squat. We got nothing about the court system, what to expect...not even a brochure...we’re basically babysitters.”

The Smiths said that since they are retired they did not have to make any special arrangements to attend court. The only inconvenience was that they were not able

to babysit for two other grandchildren that they often take care of while their parents work. Still, “that was not major at all,” said Richard, “If I was working it would be different.” Richard’s first trip to the courthouse (to submit a statement prior to the 12-month hearing) was confusing because “they had me running in all directions. They almost sent me back downtown...they said juvenile court was downtown. I said ‘no, I think it’s supposed to be here.’ It took me half an hour or better to find out where the right department was.” After that incident, they were clear on where they needed to go.

The night before the 12-month hearing, Sharon called the Smiths and asked them to come pick up the children so she could go to court in the morning. She was surprised to hear that they planned to attend court too. She brought the children to court with her and they utilized the childcare provided by the court. Marjorie recalled that when she first told the caseworker they would attend she “wasn’t real happy to hear that.” Although the caseworker said hello to them in the hallway prior to the hearing, once they were in the courtroom “she never acknowledged our presence. We were basically like fixtures.” They were not announced to the court at the 12-month hearing, although the bailiff asked them their names. They were simply told to sit in the back of the courtroom. This hearing was brief. The judge ordered Sharon’s reunification services to be extended an additional six months and gave the caseworker discretion to set up a 60-day trial home visit. After the 12-month hearing, the social worker informed the Smiths that the children would begin unsupervised visits with Sharon, and then the 60-day trial home visit would occur. Marjorie and Richard were extremely concerned about this possibility because Sharon had not regularly been showing up for the supervised visits, a fact of which the judge seemed unaware.

The Smiths began submitting statements in writing to the court after they attended the training for this project and just prior to the 12-month hearing. They did so because, they said, “To be honest, our opinion is that the caseworker was not providing the court with all the facts...She was providing the judge with what she wanted the judge to hear. She wasn’t going to provide anything negative because that wasn’t going to look good for her...the caseworker told us early on that she had never lost a single case, that all the families she had worked with had reunified.” In one instance, only the first page of a several page report they wrote to the social worker was attached to her court report, although the missing pages supplied the context for their statements on the first page.

In addition, although the caseworker made regular visits to their home to check on the well being of the children, she never asked for their input on any aspect of the case, such as how the visits with Sharon were going (even though the Smiths were asked to supervise the visits). After the 12-month hearing, however, a new caseworker visited their home and told them each time there was a visit with Sharon or Mark they were to fill out a visitation form and mail it to the judge. “This was the first we ever heard of it (the form),” said Marjorie. “We had never been given one and we had had the children for over 15 months.”

Marjorie noted that their written statements to the court “were based on the training you gave us...the kind of information the judge wanted to hear.” Over the course of a year, the Smiths wrote the following letters to the court:

- October 2000: The Smiths described the children’s development and adjustment, listed the dates of Sharon’s visits, and outlined concerns regarding Sharon’s harsh physical discipline of her oldest daughter (e.g., slapping her across the face), her inability to care properly for the children on the income she was receiving from her part-time job, and that the children needed counseling (as manifested by frequent crying and clinginess, especially when left with Sharon).
- December 2000: They expressed concerns regarding the plan for reunification with Sharon that was expected to occur at the 18-month review, given that she had had only two overnight visits with the children in the past 14 months, she had inadequate furnishings in her apartment, she “entertained male friends who have not been approved by HHS officials,” that one of these friends had transported Angela by car without a car seat, and finally that they believed her caseworker was recommending reunification so that Sharon could begin to receive welfare benefits for the children in order to improve her financial situation. They also expressed concern that the children did not have an attorney. Sharon’s caseworker replied by letter about two weeks later, stating that “your concerns are noted and appreciated...It has been unfortunate that the overnight visits with the children have been limited. However, from the Agency’s standpoint the mother has the right to the opportunity to parent her children...the children’s sleeping or crying is not considered to be an adequate reason to cancel a visit.” She stated in this letter that the children would begin a 60-day trial visit with Sharon the following week.
- February 2001: The Smiths wrote this letter one month after the children had been returned to Sharon for the 60-day trial visit. In it, they again expressed concerns about Sharon’s male friends, her drinking and swearing

in front of the children, and their exposure to cigarette smoke. They noted that the children had not received medical treatment for ear infections until the Smiths took them to the doctor, and that Sharon had had them keep the children overnight “so she could go out.” The letter concluded that “the children repeatedly state (to their mother) they do not want to live with their mother and cannot understand why they are not allowed to ‘go home’ to our house.” To this letter, the Smiths attached a 300+ page journal listing every possible detail relevant to the case, including contacts with Sharon, visitation, telephone conversations, medical appointments, comments the children made about Sharon, contacts with caseworkers, etc. The Smiths have mixed feelings about the impact of this letter. On the one hand, they were “delighted” to find out later that the judge called Sharon into court to talk with her about the letter. “We just thought our letter and journal became a part of the file and it would not be reviewed by the judge or anyone else. The judge calling (Sharon) in proves that our letter was taken into consideration.” On the other hand, sending a letter to the judge “also backfired...it got (Sharon) back on the right track (but) she punished us by withholding contact with the kids for two weeks.” In addition, said Marjorie, “The social worker’s court report stated that reunification was delayed because the grandparents were resisting reunification by constantly making complaints about (Sharon). That was in the report. In the caseworker’s mind we are troublemakers—not for information.”

- June 2001: They again noted that the children were spending the majority of time with them, not their mother, that Sharon continued to expose them to cigarette smoke, and that she had neglected to take them to the doctor for treatment for bronchitis and strep throat. They attached a note from the doctor requesting that the children remain with the grandparents until their illnesses cleared up and that the children not be exposed to cigarette smoke.
- September 2001: The Smiths sent yet another letter reiterating the same concerns as previous letters, noting in particular that Sharon was living with a new boyfriend, “a convicted felon.” They noted that when Sharon and the boyfriend would come to pick up the children Tommy “becomes very belligerent and violent and (Angela) becomes very withdrawn and silent.” The children would end up crying and screaming as they left their grandparents, which was extremely traumatic for them and for Marjorie and Richard. They noted in this letter that if the children were to be removed from Sharon again they “would make every legal attempt to become their legal guardians.”

For the 18-month review hearing, the Smiths arrived at court half an hour before the scheduled hearing time and they waited two hours for the case to be called. While waiting outside the courtroom, Sharon and the Smiths chatted cordially about the children. When the case was called, the Smiths were announced as “the paternal grandparents.” The judge did not acknowledge their presence in any way. They sat at the back of the courtroom and did not speak during the proceedings. The judge noted that Sharon was “noncompliant” three times (she had three dirty drug tests) and said that there were “consequences for noncompliance.” She noted, however, that Sharon had been in good compliance with her treatment program until three months ago (she had had 270 days of sobriety) and said that the court would continue the case for one month and if she were doing well the court would dismiss the case. She terminated services for Mark, returned the children to Sharon, and set a hearing for one month later regarding dismissing the case.

Both children had cried when they were left at the courthouse childcare facilities for the previous two hearings, so for the next one Richard stayed home with the children and Marjorie attended court. She arrived about 10 minutes before the scheduled hearing time, and then waited two hours until the hearing was called. She was dressed neatly and conservatively, in dressy slacks, blouse, and sweater. She brought with her a binder containing her notes since the opening of the case, and a note card listing relevant dates; however, she did not speak at the hearing. She was announced to the court and the judge said “good morning,” to her but did not address her in any other way; thus, she felt there was no opportunity for her to speak. While the judge (*pro tem*) appeared to be very interested in the case and knowledgeable on the law, she did not seem familiar with the particulars of the case. She referred to “the child” throughout this hearing, although the case involves two children. (In general, the Smiths believe that the use of *pro tems* created a problem in that at several hearings the judge did not know the particulars of the case.) On her way out of the courtroom Marjorie asked the bailiff if there was ever a time when she could address the court. The bailiff simply replied that sometimes that happens, and then she asked her to step outside so the next case could be called.

Unbeknownst to Marjorie, the judge had a conference off the record with the attorneys just prior to calling the case. Sharon’s attorney reported that Sharon had been doing well in her recovery program, but she had a relapse about three months earlier (about the time the children were returned to her for the trial visit) and at that time had a bench warrant issued for her arrest. The judge said, “Mom has

done a lot,” and that Sharon may have relapsed due to the stress of caring for the children who had been returned to her. She decided to leave the case open for another month to see how things went. At this point in the case, it appeared that the judge had no idea that the children were again living with Sharon only about half the time and with the grandparents the remainder of the time.

Shortly after this hearing, the Smiths were visited by a new social worker assigned to the case. She asked them why they had submitted letters to the court instead of to the previous social worker, and they told her about their concerns that accurate information was not getting to the judge. This new social worker seemed surprised to learn that the children still were not represented by an attorney. After their meeting, she sent them information in the mail regarding *de facto* parent status; however they did not pursue *de facto* parent status because they merely wanted to provide information to the court and they knew that they did not need *de facto* parent status to do so.

The next review hearing was one month later and lasted about one minute. Marjorie again observed the hearing but did not speak. Sharon’s attorney stated for the court that the judge (*pro tem*) had indicated at the previous hearing that the case would be dismissed if Sharon had done well during the month. This judge, however, said he didn’t know anything about that because he wasn’t on the bench that day. He was particularly concerned about Sharon’s earlier relapse. He continued the case for another two months and stated to Sharon that she would serve time in jail if she had another citation within the next 60 days. At the end of this hearing Sharon looked very sad, and Marjorie noted later that Sharon was very upset that the case had been continued, and she wanted to know if the judge “wanted her to live there (in court).” Apparently unbeknownst to the court (despite the Smith’s letters), the children were again spending about 60 to 70 percent of their time with the Smiths, not with their mother.

The Smiths were not able to attend the next hearing because they were out of state on vacation with the children. (Throughout the case, Sharon had continued to agree to have them take the children on their annual summer vacations with them.) Prior to this hearing, though, they had written yet another letter stating that the children were not living full time with their mother. They attached to this letter a calendar noting the exact days and nights that the children were with them and those that they were with Sharon. This time, they believe the judge took their letter into account, and he ordered the case to remain open. The case continued to remain open over the next five months, during which time Sharon was ordered to

have the children with her full time except for one weekend a month, which they would spend with their grandparents.

About two months later the electricity to Sharon's apartment was cut off and she asked if the children could stay with Marjorie and Richard until she got enough money together to pay her bill. Marjorie contacted the caseworker, who reluctantly approved the visit. (At first she said that Sharon should have to deal with this problem herself, but when Marjorie argued that it was not safe for the children to stay there without electricity, she relented.) Two weeks later, Sharon had made no attempt to contact the children. Marjorie called the social worker and pushed her to tell her what was going to happen. She said she was planning to close the case, since Sharon had done nothing wrong and they could not remove the children because her electricity was cut off. She suggested that if the grandparents would just quit taking the kids every time Sharon got into trouble then the children might be removed again for good. The Smiths, of course, could not consider this possibility because they felt that the children were greatly traumatized by their previous placement in the children's shelter, and they definitely did not want to see this happen again. In addition, they liked that Sharon's case was still open because it required her to continue drug testing. Finally, if her case were closed Sharon would no longer be eligible for the subsidized housing she was receiving through her recovery program.

At the two-year review hearing, the Smiths were acknowledged by the judge in court for the first time. He noted that he had received their most recent letter, that there was "conflicting information" about what was going on, and he finally appointed an attorney for the children. The case was continued to allow the children's attorney to review the case. Two months later Sharon was evicted from her clean and sober apartment for drinking and having her boyfriend live there. This time, the children's attorney filed a petition for detention, and the children were removed from Sharon and placed with Marjorie and Richard. At the next hearing, reunification services were denied, and a hearing for termination of parental rights was set for four months later. The Smiths had requested legal guardianship of the children, and the children's attorney approved of this plan. About a month later, however, an adoption worker from the county contacted them and said the agency was "leaning toward adoption." She stressed that legal guardianship wouldn't give them full control over the children, that a social worker would remain involved in their lives, and that "five years down the road (Sharon) could come back and take the kids." About the same time, Sharon told them that she felt the children would be better off with them because they could

provide them with stability and a better life. Based on these conversations the Smiths decided to proceed with the adoption, which will most likely be finalized in the coming year.

Conclusions

The social worker's reports noted early in the case that Angela and Tommy had spent the majority of their lives with the Smiths, that they were happy residing with them, and that they were closely bonded with them. She suggested that "their transition back to the care of their mother will be a very difficult process," and indeed it was. When the children were later returned to Sharon for the 60-day trial visit, the social worker's report noted that the grandparents "have not been supportive of the children's return to the mother, and have consistently tried to undermine the reunification process with ongoing complaints about the mother. It was thought that the children would have a very difficult time adjusting under the care of the mother, but to the contrary the children have adjusted quite well." At about the same time, Richard commented that "we would love to have (Sharon) and the children get back together and have a healthy, normal life. We are both retired and would like to travel, but we can't do that with the situation the children are in. We should be part of the team. Reunification is a team effort—the caseworker, the mother, the foster parents, and the courts. If you leave any element out, it's going to make it more difficult, if not impossible." The social worker's and the Smith's comments sum up the challenge of this case. Marjorie and Richard had served as these children's parents for a large part of their lives and had provided them with the only stability and normalcy that they knew. As such, they felt that they should play an important role in case planning, and they should not have to return the children to a situation where they had to sleep on a mattress on the floor, were exposed to drinking, smoking, profanity, exposure to their mother's boyfriends, and where their health was neglected. The social worker, on the other hand, felt that the agency could not keep the children from their mother because she smoked, swore, didn't pay her utility bills, and made poor choices in boyfriends.

Marjorie and Richard firmly believe that foster parents and kin caregivers should regularly attend court, because "they are the only ones that have current information on the child's behavior, their welfare, their care—are they eating, sleeping well, having nightmares." Based on their personal experience, however, they don't believe most social workers would agree with them, because "the goal is to reunite the children with the mother and unless something really disastrous happens, that is what is going to happen. It is probably the goal for caseworkers

for their performance review. It probably relates to pay and bonuses,” said Richard.

The Smiths believe that their letters to the court did make a difference in this case. Although it is not completely clear from observations in court that the judge took their letters into account at first, they do believe the case would have been dismissed a year earlier if they had not written, “because the social worker wasn’t telling the whole story in her report, and the judge didn’t know any different.” Looking back on this experience, their primary recommendation is that all children in care should be represented by attorneys. It took two years for an attorney to be appointed for Angela and Tommy, despite the Smith’s numerous requests verbally and in writing. In their opinion, as soon as the attorney was appointed and had a chance to review the file she recommended that the children be removed from Sharon and services terminated, and that had a major effect on the social worker’s thinking.

CASE 7: WAITING AND WORRYING

Fost-adopt mother: “If you are parenting, you are an important figure in every respect. Foster parents want to know what is going on, and what decisions are being made about the children in their home.”

Highlights

- Peter³⁴ and Celeste St. John adopted one child, now age 10, through fost-adopt, and they hoped to adopt twin boys, Matthew and Fredrico, (age two and half) who have been with them since they were 15 months old.
- Matthew and Fredrico were removed from their mother, Jessica, due to severe abuse and neglect of their older half-brother. Jessica was not expected to have any of her children reunified with her, although reunification services were offered to her for 18 months. The twins’ father, Fredrico, Sr., had never had custody of the boys, but he wanted them to be placed with him. He was employed but had no permanent housing. Several months into the case he was deported to Mexico because he was in the United States illegally.
- The boys’ case was designated a fost-adopt case three months after they entered care, and the St. Johns completed a home study in preparation for adopting them. They began attending the court hearings at the 6-month review in order to observe the proceedings and be informed about the case. Although they applied for and were granted *de facto* parent status, they felt well supported by their social workers and the children’s attorney, and they felt no need to retain an attorney of their own.
- By the 12-month review, Fredrico had returned to the United States and was making every effort to complete his case plan so that the boys could be placed with him. Still, the social worker and the county counsel continued to recommend termination of services for both parents. Several settlement conferences were held, and at the latest one the children’s attorney apparently became convinced for the first time that Fredrico had met his objectives and should have the children placed with him.
- At the trial for the 18-month review, which occurred just as this research project was being completed, the boys’ attorney argued eloquently for the boys to be placed with their father. County counsel argued that he had not fully met the goals of his case plan and that services should not continue for

³⁴ To protect the privacy of case study participants, all names and other identifying information used in these case studies are fictitious.

either parent. The judge (*pro tem*) indicated that he was leaning towards placement with Fredrico but continued the case for two weeks in order to review the file and make his decision.

- Impact of court participation: The St. Johns intended to go to court simply to observe the proceedings and stay informed about the case. They believed, wrongly, that the boys' attorney was an advocate for them as well as for the boys, and they were shocked and stunned when he argued forcefully for placement with Fredrico. In hindsight, they dearly wish that they had retained an attorney to represent them early in the case.

Case History

Peter and Celeste St. John are a Caucasian couple in their late forties who live in a small Northern California city. They are friendly but quiet and private people. Celeste is from France, and she and Peter met and married when he was a student there. They both have masters degrees, and early in their marriage they both actively pursued their careers—Peter as a chef and restaurant owner, and Celeste as a manager in various high tech companies. They were both highly successful in these pursuits, and they live a very comfortable upper middle class life. Their home is new, quite large, and beautifully decorated. Celeste left work to become a full-time homemaker when they adopted their first son, Charles, now 10 years old.

When Peter and Celeste first decided to adopt, they were licensed as an emergency shelter home, a typical practice in their county. Charles was placed with them when he was five years old, and it was fairly clear from the beginning that he would not be reunified with his birth parents. Celeste and Peter maintained an open relationship with Charles's birth mother and maternal grandmother throughout the case and after Charles was adopted. At the time of adoption, they agreed to send them regular letters and photographs and that both his mother and grandmother could visit Charles twice a year. Charles's birth mother visited him twice in the two years after he was adopted. After that, she moved out of state to live with the grandmother, and she had had no further contact with Charles (although his grandmother occasionally calls him by phone). The St. Johns continue to send them letters and photographs every year around Charles's birthday. Although Peter and Celeste have remained open to the idea of having further contact, they are somewhat relieved that the relatives have not maintained close contact because "that way (Charles) is very clear on who is his family."

For Charles's case, Peter and Celeste attended only the hearings for termination of parental rights (the .26 hearing) and for the adoption. The (county) reunification worker told them it was "not that important" for them to attend. "She said to provide care for the child and that's it," related Celeste. On the other hand, the (state) adoptions worker encouraged them to do so. At the .26 hearing it was not clear whether Charles's birth mother planned to contest the termination of her rights. She had repeatedly said she thought Charles was better off with the St. Johns, but apparently her lawyer was encouraging her to contest. As they sat in the lobby with her, Peter, Celeste, and the adoptions worker, the worker "convinced her to submit on the .26," because it was in Charles's best interests. She did submit, and the adoption was finalized about a year later.

Peter and Celeste always planned to have more than one child, so after Charles's adoption they remained licensed as foster parents. They had several short-term emergency placements, and then twin boys, Matthew and Fredrico (whom they called "Freddie") were placed with them when they were 15 months old. The boys were handsome, healthy, bright, and very active. Everyone in the family, including Charles fell in love with them immediately. They were so cute, Charles didn't even mind that they often got into his possessions and made a mess. These boys fit right into the family, and the St. Johns dearly hoped that they would be able to keep them permanently, although they understood that their obligation was to support reunification.

Originally this was an emergency placement, but three months into the case it was redesignated as a fost-adopt placement. At that time the case was dually assigned to a reunification worker with the county and an adoptions worker with the state, and an adoption home study was prepared for the St. Johns. The boys had been removed from their mother, Jessica, after an older half brother was found to be severely physically abused (bruised and burned with cigarettes) and left by himself on the side of a busy highway because he had misbehaved. The brother was living with relatives and was not expected to be returned to Jessica. Jessica had a history of substance abuse and mental health problems and she was homeless. Jessica and the twins' father, Fredrico, Sr., no longer maintained a relationship. Although he had regular visits with the boys, he had never had custody of them. Fredrico was from Mexico and living in the United States without documentation. He was fairly new to the country and did not speak English. He was employed but did not have permanent housing. He would need to obtain adequate housing and child care in order to have his sons placed with him. At the beginning of the case, he definitely did not seem to understand the seriousness of what had happened and

there was no change in his housing status. Then, several months after the case was opened he was apprehended for violation of immigration laws and deported to Mexico. He would not return until just prior to the 12-month hearing. Celeste met both Jessica and Fredrico when she dropped off the boys for visits (Jessica had supervised visits; Fredrico's were unsupervised). She had a cordial relationship with Jessica but very little conversation with Fredrico, as he did not speak English. Both parents visited with boys regularly, Fredrico more consistently than Jessica until he was deported.

Throughout most of the case, the St. Johns felt that they had a good rapport with the boys' social workers and attorney and that both the social workers and the attorneys valued their opinions. The attorney contacted them by phone regularly for feedback regarding how the boys were doing. He seemed very supportive of them adopting the boys, and just before the 12-month hearing he suggested that they apply for *de facto* parent status. Celeste felt somewhat uncomfortable with requesting *de facto* parent status, since she felt that she had a fairly good relationship with Jessica, and she did not want that relationship to become adversarial. On the other hand, the St. Johns wanted to be better informed and "more a part of the process." They ultimately decided to pursue *de facto* parent status. At the 12-month hearing, the children's attorney was the one who made the request for them to the court, and *de facto* parent status was granted at that time.

The reunification worker contacted them regularly to check on how the boys were doing, and she visited their home once a month. Early in the placement, her reports noted, "This is a good placement, which is appropriately providing for (the boys') needs. They are settling in and beginning to bond with the foster family." She noted that "the foster family is interested in adopting if reunification is unsuccessful," but that "there is a substantial probability that the children will be returned to their father's care." She always informed them of what her recommendation to the court would be, and she shared with them her reports to the court. However, while the St. Johns felt that the investigation worker's report was extremely well written, the reunification worker's reports were sketchy and "poorly done." They rarely said anything about the boys other than the most general statements, such as "he has a beautiful smile." In addition, they were unclear, poorly written, and often contained conflicting information. At the 12-month review, the boys' attorney pointed out that the recommendation in the report (continuation of services) was not what the social worker was actually recommending (termination of services), and requested that the report be revised. The reports were so brief and confusingly written that the research staff for this

project could understand almost nothing about the case by relying on the reports alone.

Court Participation

When the twins' status was changed to fost-adopt, Peter and Celeste became very interested in attending court "in order to be more informed and involved." When they informed their social worker that they would be attending, she "did not encourage, but also did not discourage" them. At first, their objective was simply to be informed. As Celeste noted, "The boys are doing fine. We feel no need to make a statement."

The St. Johns received regular and timely notice of all court hearings, and they were informed by the social worker of her recommendations prior to each hearing. They began attending court as observers at the six-month review hearing. They felt "confused in the beginning," but now that they have attended court several times they feel fairly clear regarding the court process. Throughout the case, they felt comfortable calling either the social worker or the boys' attorney (or both) if they had any questions. They had no problems attending court since the courthouse is very near their home, Peter's work allowed him the flexibility to attend at any time, and they had regular childcare arrangements for the boys. They were familiar with the courthouse and the courtroom from Charles's adoption. Typically, waiting times at this court were not as long as in other jurisdictions, because parties to cases are given specific times for their hearings. Still, waiting was somewhat awkward because the lobby for the courtroom is quite small. Thus, all the parties are forced to sit very close together and can overhear each other's conversations. The St. Johns typically talked to each other in French when they were in the lobby to keep their conversations private.

The St. Johns were first observed for this project at the 12-month review hearing. They arrived at the courthouse about 15 minutes early, and then waited two hours for the case to be called because the court needed to find a translator for Fredrico. They dressed professionally in business suits, in sharp contrast to the birth parents and relatives who were casually dressed and were obviously poor. While they were waiting, Jessica arrived with her mother, two sisters, and the sisters' boyfriends. The St. Johns said hello to everyone, but there was no real conversation between them. At one point, one of the boyfriends approached Peter and started to tell him what a bad person Fredrico was. He tried to give Peter his phone number and he asked him to call him, but Peter declined. Jessica did not ask the St. Johns about the boys, but when Fredrico's interpreter arrived, he

inquired through the interpreter how the boys were doing (he had not seen them for about five months, since he had been deported).

When they entered the courtroom the St. Johns were announced to the court, but the judge did not acknowledge them. They sat at the back of the courtroom. This particular courtroom has a very awkward layout, with large posts and a low wall in between the main courtroom area and the observers' seats in the back. Thus, it is extremely hard for observers to hear the proceedings. Interestingly, although Jessica sat at the main table next to her attorney, Fredrico was asked to sit in the jury box with his interpreter. It is also very difficult to hear the proceedings from the jury box, and the interpreter had to interrupt the hearing several times to ask for statements to be repeated.

The St. Johns felt excited about this hearing. They had been told by the social worker that none of the relatives was interested in adopting the boys and that services to the parents would most likely be terminated (this was the worker's recommendation to the court because Jessica had not complied with her case plan and Fredrico had been out of the country the entire time and therefore was unable to comply with his). Both parents contested the termination of services, however, and the judge continued services for three months and ordered that a settlement conference be held. At the end of the hearing the boys' attorney made a motion to grant the St. Johns *de facto* parent status and that motion was granted. The St. Johns declined to have an attorney appointed for them because they felt they "were well represented and supported by the children's attorney." They simply wanted access to the court reports and to "be able to sit at the main table," which they expected to do at the next hearing. The St. Johns, who very much wanted to adopt the boys at this point, were disappointed with the outcome of the hearing. They were also unhappy that Fredrico would again be able to start taking the boys for unsupervised visits now that he was back in the country. Still, they believed that eventually parental rights would be terminated and the adoption would move forward.

The St. Johns did not attend the settlement conference, partly because they were not sure it was appropriate for them to attend, but mainly because Celeste's family was here for a visit from France and they just wanted to relax and enjoy their company. At that conference a decision was made to request that the court order that both parents receive six more months of services. In order to be considered for reunification, both of them needed to maintain employment, and find suitable

housing. In addition, Jessica needed to attend substance abuse treatment and parenting classes, and Fredrico needed to resolve his immigration issues.

Three months later, the St. Johns returned to court for an interim review regarding continuation of services. Again, they were dressed professionally in business suits. They did not speak to either Jessica or Fredrico, since they both waited outside the courtroom lobby while the St. Johns were inside. The case was called quickly and the St. Johns were announced as the *de facto* parents. When the St. Johns entered the courtroom they were asked to sit in the jury box, along with Fredrico and his interpreter. Peter requested of the children's attorney that they sit at the main table since they now had *de facto* status. The attorney asked the judge and the request was granted. Although the judge nodded she did not speak directly to them. During the hearing, the judge did not inquire if they had anything to say. The social worker's report noted that there was "a substantial probability that with continuation of services the children may be safely returned" to Fredrico, but on the other hand, she suggested that services would be terminated if the parents had not met the goals of their case plan by the 18-month review. Both Jessica and Fredrico contested the report, and the judge ordered another settlement conference.

The St. Johns did attend this settlement conference, and they were glad they did. They felt that for the first time "people talked to each other" about what Jessica and Fredrico needed to do to be reunified with their children. At this point it seemed clear that Jessica would not be successful, as she had not complied with most aspects of her case plan. Fredrico, on the other hand, had found housing, had identified a babysitter who could care for the boys while he worked, and had attended parenting classes (even though this was not required of him). He had also contacted INS regarding his immigration status but was not able to have his case reviewed by the INS for at least six months. Despite Fredrico's efforts, the social worker and county counsel believed that this case had been open long enough and that the boys needed to move toward a permanent home with the St. Johns. At the settlement conference the St. Johns were asked by county counsel whether they would consider an open adoption with Fredrico. They stated that they would certainly consider it, as they had already agreed to an open adoption with Charles, but that they were not prepared to discuss the terms of openness at this meeting. The boys' attorney, however, seemed very impressed with Fredrico's efforts, especially that he had gone above and beyond what was required in his case plan. Thus it appeared that the two attorneys would argue for two different outcomes at the upcoming trial for the 18-month hearing. The St.

Johns felt betrayed by the boys' attorney at this point because he had been such an advocate for them early in the case, but they believed that county counsel would prevail, since for many months the social worker's recommendation had been for termination of services.

At the trial, the St. Johns were surprised to find that an associate of the boys' attorney attended in his place. In addition, the regular judge was on vacation, so the case was heard by a judge *pro tem* who was not familiar with the case. The new attorney made a forceful and eloquent argument regarding all of the efforts that Fredrico had made in order to reunify with his sons, and the judge was clearly moved by her argument. He said, however, that he needed to call a continuance in order to study the case and that he would announce his decision in two weeks. He gave a hint of his leanings when he said that he was going to order overnight visits with Fredrico to begin immediately. The St. Johns were shocked and stunned by this sudden reversal of the direction they thought the case was heading. Peter stood up and said they objected to the overnight visits since a decision had not been made yet regarding reunification, and the boys had never had overnight visits with Fredrico since the case was opened. The judge then agreed to delay the decision on overnight visits as well.

The St. Johns immediately contacted a lawyer recommended by their adoption social worker "to see if we could appeal or get a continuance." This lawyer was sympathetic but stated that she could not assist them since the trial had already occurred and they were simply waiting for the judge's decision. At the time this project was completed, the St. Johns had decided to try to contact Fredrico to again discuss the possibility of open adoption as being in the best interests of the boys.

Conclusions

The St. Johns believe that it is very important for foster parents to be involved in the court process, because as Celeste puts it, "If you are parenting, you are in important figure in every respect. Foster parents want to know what is going on, and what decisions are being made about the children in their home." In addition, they feel that "social workers will listen to foster parents more if they come to court." Throughout most of the case they thought it would be enough to simply attend court and stay informed about the progress of the case. In retrospect, they are deeply troubled that they did not obtain an attorney early in the case and that they trusted the children's attorney to represent their interests as well as those of the boys.

At this point the boys have lived with the St. Johns for 20 months—more than half of their lives. They call Celeste and Peter “mom and dad” and they see Charles as their big brother. This family will obviously be devastated if they lose these boys. On the other hand, because of his deportation, Fredrico did not really have the opportunity to prove his fitness as a father until later in this case, and it appears that he has made valiant efforts since he was able to return to this country. In addition, he maintained regular visits with the boys except for the period of time when he was deported. One can only hope that face-to-face discussions occur between Fredrico and the St. Johns in order to craft a solution that truly is in the best interests of these two young children.

CASE 8: UNSETTLED LIVES

***Fost-adopt mother:** “I was always rooting for her (the birth mother) until I saw it was having an emotional toll on (Mariah, the foster child). It’s really disgusting that we have to be enemies.”*

Highlights

- Christina³⁵ and Howard Winston have been providing foster care for the past three years in the hopes of being able to adopt a child. At the outset of this particular case, they had already had four fost-adopt placements in which the children were reunified with their birth parents. This has been a stressful and emotional time for them, especially Christina, but they have continued to provide care for several children at a time throughout this period.
- Mariah (age 4) was placed with them for one month when she was two years old, and then again about three months later, after a placement with a relative did not work out. She was removed from her young parents, Kimberly and Ricky, due to neglect. They were homeless and unemployed and admitted to using drugs regularly at that time. They were provided with reunification services for 18 months, but they did not comply with their reunification plan.
- Christina began attending court after she participated in the Caregivers and the Courts training. She said she attended because she wanted to be informed about what was happening in Mariah’s case, but she would have also liked to have spoken in court (if only someone had asked her to) and to be a part of the case planning process.
- Christina attended four hearings for Mariah’s case, as an observer. She was always professionally dressed, but she was also tense and often tearful or close to tears. While the judge never acknowledged her presence in court, she did note to an observer that she thought Christina did not want Mariah’s parents to be successful—“it was written all over her face,” said the judge.
- Mariah’s birth parents’ rights were terminated two years after she was placed with the Winstons. Her adoption is expected to be finalized in the coming year.

³⁵ To protect the privacy of case study participants, all names and other identifying information used in these case studies are fictitious.

- Impact of caregiver participation: Christina does not believe that her attendance at court had any impact on the outcome of Mariah’s case, since she never spoke in court. She said it was “basically a waste of time.” She likes the idea that now there is a form for providing information to the court, and she plans to submit information regarding another fost-adopt child. However, she has not attended any of his hearings and she does not plan to do so in the future.

Case History

Christina and Howard Winston are a Caucasian couple in their mid-forties who live in a small Northern California town. Howard is a high school graduate and works as a carpenter. He is a happy-go-lucky man who loves little children—and little children adore him because he is always willing to give piggyback rides, toss them in the air, or do magic tricks and other such things to amuse them. Christina has had one year of college. She is a homemaker who also works part time as a hairdresser. She is quieter and more serious than Howard, and she is the one who makes certain that the household runs smoothly. Christina and Howard always planned to have children, so when they were unable to get pregnant they decided to try to adopt through foster care.

Christina and Howard were licensed through their county as an emergency satellite home three years ago, and since then they have had 19 children placed with them. Of these, 4 were designated as fost-adopt cases, but all four children were reunified with their families. These past three years have been extremely stressful for Christina in particular, because of the loss of each of these children that she had hoped to adopt. When she talks about her experience as a foster parent, she is often close to tears. Still, she and Howard continued to accept foster placements and to hope that someday they would have a child to call their own. They also continued to believe that reunification was in the best interests of children if at all possible, and they felt that they supported reunification to the best of their abilities.

At the time of this study, the Winstons were providing a home for three unrelated children—Mariah, age 3, Donnie, age 3, and Andrew, age 5. This was Andrew’s third placement in their home—he had had a failed reunification attempt and a failed placement with a relative. They did not intend to adopt him, because he had severe behavioral and emotional problems and the agency wanted his permanent placement to be with his older brother (who was currently in a group home) once

they could find a family that would take them both. Donnie was expected to be reunified with his mother, although the Winstons had agreed to adopt him if the reunification did not occur.

Mariah was first placed with the Winstons when she was two years old. From the moment they saw her, Christina and Howard wanted to adopt her. She is an adorable, bright, funny little girl and a delight to be with. Mariah was removed from her young parents, Kimberly (age 19) and Ricky (age 20), due to severe neglect. At the time, they were living at a homeless shelter and actively using drugs. Neither had ever held a steady job. There had been several previous referrals to child protective services by shelter staff for failure to supervise her adequately. The day she was removed, her parents had passed out in a park and Mariah was playing, unwatched, next to a busy street. She was somewhat malnourished and had a bad case of head lice, but otherwise was healthy and on track developmentally. Mariah was placed with the Winstons for one month and then placed with Kimberly's cousin, at Kimberly's request. Three months later the cousin decided she could not keep Mariah due to problems the cousin was having with Kimberly, so Mariah was returned to the Winstons. (A mediation was scheduled for Kimberly, Ricky, and the cousin just prior to this, but none of them showed up for the meeting.)

Both Kimberly and Ricky entered substance abuse treatment programs, and fairly quickly they were allowed to have unsupervised visits with Mariah. Christina had several long conversations with Kimberly when she dropped off Mariah, and to her these conversations always seemed cordial. She felt sorry for Kimberly because she seemed like such a child herself and very lost and overwhelmed by her life situation. Later, however, Ricky told the social worker that Christina had offered them a bribe in order to agree to let her adopt Mariah. Christina recalled that the only conversation she had ever had about adoption was when Kimberly, who was pregnant again, once asked her casually if she wanted to adopt the baby she was carrying. Christina told her she was certainly willing to do so if Kimberly wanted her to be adopted. Shortly afterward Kimberly miscarried and lost the baby. Christina's licensing worker came to her home to investigate the allegations of the bribe, and the investigation was quickly closed after she heard Christina's statement. She felt very supported by the worker, but she was always uncomfortable around Ricky and Kimberly afterward, and they only spoke in the most superficial ways when she dropped Mariah off for visits. As the case progressed, she came to realize the extent of Ricky and Kimberly's emotional immaturity and she started to become more and more upset about the distress it

was causing Mariah. She noted that “I was always rooting for (Kimberly), until I saw it was having an emotional toll on Mariah. It’s really disgusting that we have to be enemies.”

Visitation for both Kimberly and Ricky was suspended just before Mariah returned to the Winstons for the second time because both Kimberly and Ricky had again begun to use drugs. They both entered a new treatment program, however, and by the six-month review the social worker noted in her report that there was “a substantial probability of reunification.” Visits were reinstated, although now they were supervised by the social worker at the agency offices, and quite often Kimberly or Ricky did not show up for the visits. As a concurrent plan, Mariah’s case was designated a foster-adopt case and an adoption worker was assigned to complete a home study for the Winstons.

Howard is a hands-on parent, but he has left the details of dealing with the social services agency and attorneys up to Christina as much as possible. The reunification and adoptions social workers regularly visited with Christina at home before every court date, as did Mariah’s attorney. Christina felt very comfortable with the adoption worker and the attorney, less so with the reunification worker because “her focus is just on the birth parents, not what is best for the child.”

Court Participation

Christina and Howard got notices in the mail regarding Mariah’s court hearings, but they did not always arrive in a timely way. A notice for a June hearing, for example, arrived in September. Christina always knew when the hearings were going to happen, though, because the social worker and attorney would contact her to set up a visit with her and Mariah before the court date.

Christina and Howard never knew that it was possible for them to attend court until Christina attended the Caregivers and the Courts training. As soon as she heard that she was able to do so, she began attending court, for the first time at the 12-month hearing. Her goal was simply to “know what is going on.” She said, “We really want Mariah and we want to know what’s happening to her.” She was becoming more and more concerned about Kimberly and Ricky missing their visits with Mariah, because it was so upsetting to Mariah. In addition, Kimberly had told Mariah she was “growing a new Mariah in her tummy,” which had left Mariah confused and upset for days. Christina felt that Mariah needed stability

and someone who was willing to put her needs first, and that Kimberly and Ricky were not going to be able to do this.

Howard was not able to attend court since he could not miss work, but Christina had the flexibility to do so. The children were all in nursery school, so childcare was not a problem. Mariah's attorney told Christina she didn't need to go to court, but if she did she should "keep a low profile and a poker face." The reunification worker did not say Christina could not go to court, but Christina definitely got the feeling from her that "it's not your concern." At the hearing, Christina was announced to the court, but the judge did not acknowledge her presence. She sat at the back of the courtroom and could hear very little of what was said. She very much wanted to move forward and be more a part of the proceedings, but there was no way for her to do so, since this courtroom had a low wall, several large posts, and a large space separating the observers' seats from the main courtroom itself. The judge continued services for Mariah's parents another six months. The children's attorney then told her she could leave (even though Kimberly and Ricky remained in the courtroom for a few more minutes). Thus, Christina felt like "basically it was a waste of time" for her to have been there.

Christina was first observed for this study at the 18-month hearing. Since the previous hearing, she had continued to drop Mariah off at the social services agency for weekly visits with Kimberly and Ricky, many of which turned out to be "no shows." She felt even more strongly at this point that they were not going to be able to be responsible parents to Mariah. Christina arrived early for the hearing and was dressed conservatively in a business pantsuit. In contrast, Kimberly and Ricky were dressed casually in t-shirts and jeans. They looked even younger than their ages (they appeared to be about 16 or 17). Christina was announced to the court along with the parties, and again she sat at the back of the room. The judge did not acknowledge her presence in any way. (Christina noted that the judge was "more tense" when the observers for this study were in the courtroom, however.) The social worker's recommendation was to terminate services for Kimberly and Ricky, as they had not followed through with their treatment program, they had not found housing, and they had missed many of their scheduled visits with Mariah. The parents contested the recommendation, and a hearing was set for two weeks later.

At the next hearing, Christina dressed somewhat more casually and seemed a bit unkempt in her appearance. She had had a very hard time finding a parking place at the courthouse, and she arrived out of breath, fearing she was late. Despite her

intent to “keep a poker face,” as the attorney had admonished her, Christina looked tense and worried. The judge nodded at her when her name was announced to the court but did not otherwise acknowledge her presence. (Later, the judge noted privately to an observer that there really should be more assistance for foster-adopt parents when children are returned to their birth parents. She commented that she could tell that Christina didn’t really want Mariah’s parents to be successful—“it was written all over her face.”) At this hearing, the judge stated that “with a heavy heart” she was terminating services to both parents due to their noncompliance with their case plan. Kimberly’s attorney noted that she had done well for about a year, but then “things fell apart” over the past nine months. He said that she had recently entered a treatment program, started working, and found housing. He requested a “bonding study” to be done for Mariah, and county counsel and Mariah’s attorney had no objection. The judge ordered the study, noting that it was to include the foster parents as well. A hearing to terminate parental rights was set for four months later.

Mariah’s adoption social worker attended court for the first time at the .26 hearing, and she sat with Christina both in the lobby and in the courtroom. Christina was extremely nervous, almost in tears, but she seemed to be comforted by the adoption worker’s presence. She dressed very professionally, in a business suit. Kimberly and Ricky again arrived at court in t-shirts and jeans, and on Ricky’s t-shirt was an advertisement for a brand of beer. Christina, Kimberly, and Ricky sat about five feet away from each other in the small waiting room, but they did not speak. In the courtroom, Ricky submitted on the recommendation to terminate his parental rights. Kimberly stated through her attorney that she would submit if she were able to have occasional visits with Mariah and to get pictures of her each year. The judge ordered a settlement conference to see whether this could be arranged, and set a new hearing for two weeks later. Kimberly’s attorney invited Christina to attend the settlement conference, and the judge noted that Ricky could attend as well, even though he had submitted on the recommendation. Christina believes that Kimberly and Ricky were convinced not to contest the termination of their rights because of the bonding study, which stated that Mariah’s sporadic visits with her parents were confusing her and that she needed to have a permanent placement where she could begin to bond with a family. The study also described Kimberly and Ricky as unavailable to meet Mariah’s emotional needs and said she was under great duress as a result.

In the waiting room just outside the courtroom, Mariah’s attorney spoke with Christina while Kimberly’s attorney talked with her. Christina and Kimberly had

their backs to each other and both were crying, but each of them could hear the other's conversations. Christina was listening to Mariah's attorney explain to her what would happen at the settlement conference and how a termination visit for Mariah with Kimberly and Ricky would occur. Kimberly was saying to her attorney that she wanted to be able to write to Mariah "to let her know we didn't forget about her," and she asked if she could see her on her birthdays. The attorney commented that "it's also about what's best for (Mariah)," and explained that Kimberly would have to be clean and sober. At this point, Mariah's attorney entered the conversation, stating that "there can't be any court orders. Adoptive parents have to be able to make these decisions." Kimberly abruptly said she had to leave because she had a job interview at 2 p.m. (which was more than two hours from then), and she walked out. Ricky left with her. The three attorneys—Kimberly's, Ricky's, and Mariah's—then conversed with Christina. Kimberly's attorney told her that the reason Kimberly was so upset was because she had been told she (physically) might not be able to ever have any more children. Ricky's attorney argued that "they really have kept up their visits," (which they had not), but that Ricky "is really in a place where he thinks (Mariah) is better off with you." Mariah's attorney concluded the conversation by saying that she was glad that Christina had come to court today and that she would be attending the settlement conference.

Prior to the settlement conference, Christina and Howard met with the adoption worker and decided what they were willing to offer Kimberly and Ricky, namely that they would send photographs of Mariah to them twice a year until she was 18 years old. In addition, they said they were open to letting them have contact with Mariah by phone in a year or two, after she had had a chance to settle in with them, and finally, if those contacts went well they would consider letting them have a visit with her annually. Kimberly and Ricky were pleased with Christina's offer, and at the hearing two weeks later they submitted to the termination of their parental rights. Christina did not attend that hearing. Instead, she and Howard took Mariah on a trip to meet some of their close friends. Christina noticed that about a week after they told Mariah that she was going to be adopted she quit biting her nails and pulling out her cuticles, which she had been doing until they bled since she had arrived in their home. Christina noted with amazement that "she has long fingernails now." The Winstons expect that Mariah's adoption will be finalized in the coming year. They hope to adopt at least two more children from foster care in the coming years.

Conclusions

Christina believes that “it would be wonderful for foster parents to participate in court. It gives a sense that foster parents count and can contribute to the child’s well being.” She thinks that “foster parents should have more say-so regarding the child’s well being. Instead, the system is focused on the parents first and the child is dragged behind.” She is not convinced that her attendance at court made a difference in this case, however, since she never spoke. Indeed, there is no indication in the court reports or from what occurred in the courtroom that her attendance did make a difference (although Mariah’s attorney did say in the end that he was glad she had come).

When asked if she would do things differently if she had the opportunity, Christina said she would be more likely to submit information in writing to the court. That way she could have expressed her concerns about the stress that the uncertainty of the situation was putting on Mariah. She was pleased to learn from her local foster parent association that the Caregiver Information Form approved by the Judicial Council is now available for submitting information to the court, and she plans to use the form to submit concerns about the health of her fost-adopt son, Donnie, to the court. She has not, and most likely will not, attend court for his hearings, however.

SOCIAL WORKER FOCUS GROUPS

To explore social workers' perspectives on caregiver involvement in court, 15 county social workers (11 line workers and 3 supervisors and 1 court officer) were interviewed in four focus group discussions—one in each of the four study counties. Overall, county social workers seemed reluctant to participate in these discussions, and many of their comments focused on regulations and standards for practice rather than on their opinions. Still, several were remarkably candid about their experiences with caregivers and with their opinions about caregivers attending court, and it is primarily their comments that are reflected here. The group discussions centered on the process of giving and receiving information about children in care, and social workers' experiences with and opinions about caregivers attending court.

Information Sharing

There was a great deal of variation in the amount and type of contact social workers had with caregivers. Some visited caregivers at home frequently; others had contact primarily by telephone. Several social workers noted that contact depends greatly on the nature of the case (workers need frequent updates on young children and at earlier stages in cases) and on the caregiver (some “can call you every day if they’re anxious,” others are “very independent”).

Most of the social workers said that caregivers should have virtually all of the information that is available about a child—why the child is in care, who are the “key players” (social worker, attorneys, CASA [Court Appointed Special Advocate], therapist, public health nurse, etc.), the child’s medical and educational histories, placement histories, descriptions of behavioral or emotional problems, guidelines for visitation with birth parents, and the current status of the child (i.e., likelihood of reunification). These social workers indicated that the caregivers do get all of this information, but some noted that they provide much of it verbally,

“Foster parents get what they *should have*, but a lot of them want more. They should get enough to care for the child. They don’t need specifics about birth parents.”

not in writing. Several noted that caregivers may not get information in the most timely way. Others noted variations in how much information a caregiver receives depending on the social worker (newer workers tend to share more than those who have been with the agency a long time) and the individual relationship between worker and caregiver. As one social worker put it, she shares a great deal of information “as long as they (the caregivers)

don’t try to get into case management...as long as they just care for the child.”

One worker commented, “Foster parents get what they *should have*, but a lot of them want more. They should get enough to care for the child. They don’t need specifics about birth parents.” Indeed, there was a strong consensus that caregivers should generally not have access to detailed information about the birth parents and therefore they should not have access to court reports, because these reports contain descriptions of birth parents’ drug and alcohol abuse, criminal records, mental health issues, and so on. Social workers were particularly concerned about confidentiality, and several noted that allowing caregivers to come to court violated the confidentiality of birth parents. However, they also knew of instances in which social workers (not themselves) shared detailed information about birth parents with caregivers. As one worker noted, “Some foster parents are more intensive with their involvement in the case, and information gets shared that shouldn’t be.” Many social workers expressed concerns that the more caregivers know about birth parents, the more danger that they will not want to support reunification.

There was disagreement among social workers in one focus group as to whether caregivers should know the HIV status of children in their care. Some workers argued that releasing this information was not allowed under the law. Others noted that caregivers need this information in order to take health precautions in caring for the child.

The social workers cited the following type of information that they would like to receive from caregivers: descriptions of the child’s visits with birth parents and any negative behaviors of the child after visits, the child’s health and educational needs and developmental progress, and the child’s adjustment to the foster home and school. They varied in whether they would like to receive this information in person, by phone, or in writing, but all agreed that they wanted it to come to them, not directly to the court.

Social workers tended to believe that information from “professional foster parents” was more reliable than that from kin caregivers or foster-adopt parents, both of whom tend to have “hidden agendas.” In addition, kin caregivers were perceived as “more guarded” with social workers because of their concerns that children might be removed from their homes if they provided negative information (for example, about birth parents visiting). In addition, social workers thought kin caregivers tended to minimize problems with the child in order to avoid having them removed, or they “may be in denial about problems with the child.”

Several social workers noted that they depend heavily on caregivers for information about children in their care, pointing out that caregivers “definitely know the child better than we do.” As one put it, “Anytime you have someone

who knows the child very well we do the child a favor if we hear that voice and give it the appropriate weight.” Social workers rarely thought they got irrelevant information from caregivers. However, workers tended to assess the reliability of caregiver information based on perceived biases. As one put it, “I gauge how sophisticated the foster parent is, and whether they have ulterior motives. If the foster parent is always negative about the birth parents, then I start to wonder about the information I’m receiving.”

What social workers generally do not want from caregivers is opinions about the case plan. One worker stated that input from the caregiver is “fine, as long as they

“[The caregiver’s role] is to help me reunify this child with the parents. Foster parents need to understand what the law puts out there for reunification. It is not as high a standard as foster parents think it should be.”

support my recommendation.” Similar comments were that foster parents have become more “militant,” that they “are trying to take on too much responsibility,” that they “sabotage reunification” because “they have a bias against the biological parents,” and that they “exaggerate a child’s emotional response because they want to keep the child.” A number of them blamed this new state of affairs on concurrent planning, in that caregivers are not as

committed to supporting reunification as in the past. As one social worker put it, the caregiver’s role “is to help me reunify this child with the parents. Foster parents need to understand what the law puts out there for reunification. It is not as high a standard as foster parents think it should be.” Another stated, “In my opinion the court is about reunification. What role does a foster parent play in that?”

These social workers definitely wanted to control the flow of information from foster parents to the court. They don’t want caregivers to send letters to the court, and they don’t want to be surprised in court with information coming from a caregiver that they have not yet heard. They especially do not like it when a caregiver “distributes information all over the county” (meaning to attorneys and parties to the case.) These social workers insisted that any information that a

caregiver provided (positive or negative) would be included in the court report, but the workers wanted an opportunity to respond to the information before it went to the court. In general, caregivers “should

“[Caregivers] should be heard—they’re very important—but they should be heard through the caseworker.”

be heard—they’re very important—but they should be heard through the caseworker.”

Court Attendance

Social workers who go to court regularly said they seldom see nonrelative caregivers in court. None of the social workers interviewed said they encouraged caregivers to attend court, although several said they “would not discourage them” from doing so. Although a number of workers were open “in theory” to the idea

“On a thinking level it sounds good, but on a feeling level I want to say to the foster parent ‘you just stay home and take care of daily routines and I’ll let you know what happens.’”

of caregivers attending court, they tended to become more negative the more they talked. As one worker put it, “On a thinking level it sounds good, but on a feeling level I want to say to the foster parent ‘you just stay home and take care of daily routines and I’ll let you know what happens.’” A number of workers mentioned that they liked the idea of caregivers going to court once in order to see what court is like, understand the process and the players, and to see that the courtroom is the ultimate site for decision making (that the judge makes the decisions, not social workers). Their primary concerns about foster parents attending had to do with controlling the flow of information to the court, avoiding breaching the confidentiality of birth parents, and avoiding “surprises” that might result in

continuances or in problems for the social worker. Several workers commented that there would be no reason for caregivers to come to court unless they had a problem with the worker’s recommendations, that is, “unless their plan is not our plan.”

The idea of caregivers attending court seemed to raise control issues and at a fundamental level appeared to be very threatening to these social workers. Frequent comments were that having caregivers in court “complicates things,” “muddies the waters,” or “makes things very messy.” Workers tended to argue that “we are already representing the child,”

“that’s our territory,” and “their (the children’s) interests are already in our hands.” One particularly outspoken worker put it this way, “We are the drivers. I tell

“[T]heir (the children’s) interests are already in our hands”

them (the caregivers) ‘you are the professional caretaker. I can remove the kid with seven days notice.’ They need to know that.”

Workers also were concerned that court attendance could cause tensions between birth parents and caregivers. Several noted that foster parents and birth parents often have good relationships, and that “if foster parents and birth parents can work together, it makes things so much better for everyone.” They felt that by attending court, caregivers can make the relationship with birth parents more adversarial. Finally, some workers noted that because attending court can be highly emotional for the caregiver, this heightened emotion might have negative effects on the children when the caregiver returned home. Staying out of court “keeps emotions down and keeps them in the world they should be in.” Only one social worker cited a positive consequence of caregiver attendance—that relative caregivers might have an opportunity to make themselves better known to the child’s attorney, and thus have the attorney become more comfortable with having the child remain with them.

“[If] foster parents and birth parents can work together, it makes things so much better for everyone.”

In summary, the social workers interviewed said they rely heavily on caregivers, particularly nonrelative foster parents, for information about children’s development, adjustment to placement, medical and educational needs, and visits with birth parents. By and large, they believed that caregivers should have access to any information they need in order to care for the child, but that such information does not always get to caregivers in writing or in a timely way. There was a consensus that caregivers should not have detailed information about birth parents and should not have access to court reports. Workers cited issues of confidentiality, but also that caregivers are more likely to want to get involved in case planning and less likely to support reunification the more they know about the case. In addition, social workers indicated that they do not want to be surprised in court by information they were previously not aware of. The social workers interviewed generally did not want caregivers involved in case planning, and they definitely wanted to control the flow of information to the court. The idea of caregivers attending court appeared to give rise to control issues and at a fundamental level seemed very threatening to these social workers.

ATTORNEY FOCUS GROUPS

To explore attorneys' perspectives on caregiver involvement in court, 47 dependency court attorneys (25 attorneys for birth parents, 14 child welfare agency attorneys, and 12 children's attorneys³⁶) were interviewed in four group discussions—one in each of the four study counties. The discussions centered on the process of giving and receiving information about children in care, and attorneys' experiences with and opinions about caregivers attending court. As was the case with the social worker focus groups, many of these attorneys were prone to respond to questions with what was required by law as opposed to offering their own opinions about what should occur. However, a number of them also were quite forthcoming with strong opinions about the role of caregivers in court and in the child welfare system.

Information Sharing

In general, children's attorneys had the most contact with caregivers. Many of them visited children at the caregivers' homes or spoke with caregivers by phone prior to court hearings. The information flow between caregivers and children's attorneys tended to go both ways, with caregivers often calling attorneys for information about their cases in addition to providing information about the child. County counsel tended to have contact with caregivers only when they were subpoenaed to appear in court. Birth parents' lawyers rarely had contact with caregivers unless they were relatives who still had contact with the birth parents. Not surprisingly, then, children's attorneys were the most likely to rely on information from caregivers when preparing for court hearings. The types of information they found useful from caregivers were identical to those cited by social workers: descriptions of the child's visits with birth parents and any negative behaviors of the child after visits, assessments of the child's health and

“My concern is that when caregivers submit something...it's been filtered through a social worker where it would be misinterpreted.”

where a social worker includes foster parents' comments. Fundamental

educational needs and developmental progress, and adjustment to the foster home and school. Attorneys tended to think that, ideally, information from caregivers should go to social workers, who would then include it in their reports to the court. In practice, however, they suggested that this rarely happens. One attorney said, “I have yet to find a report

³⁶ San Francisco attorneys are part of a panel system and thus represented both children and birth parents.

information is lost with social workers.” Another commented, “My concern is that when caregivers submit something...it’s been filtered through a social worker where it would be misinterpreted.” Several children’s attorneys said they routinely call caregivers to check on the accuracy of social workers’ reports. One went so far as to say that “nine times out of ten” the social worker’s report is not correct.

In terms of the reliability of information from caregivers, attorneys tended to discount information from anyone other than “professional foster parents.” In their minds, kin caregivers have the most information about what is going on with children and birth parents, but they either don’t share this information or they provide false information to suit their purposes. Fost-adopt parents and some kin caregivers, according to many of the attorneys interviewed, have a vested interest in not supporting reunification, so any negative information they provide about birth parents or about children’s behavior after visits is automatically suspect in the minds of most attorneys. “I’ve seen caregivers taking notes of the quality of visits, and they’ll take the notes to use against the parents,” was a typical comment. Several attorneys noted that caregivers need to better understand the difference between “facts” and “advocacy,” and they need to limit their comments to the former. If information from caregivers about visitation sounded suspect to children’s attorneys, they tended to consult with the social workers in order to assess the intent of the caregivers. In fact, belying their frequent comments that social workers’ reports are inaccurate, most of these attorneys said that as a general rule they relied on social workers not caregivers for information relevant to their cases. Interestingly, a number of birth parents’ attorneys noted that they would like to be able to obtain information from caregivers about the child, but currently there is no mechanism through which to do this. “We have to rely on information about the child in court, but we’re not allowed to talk to the people who care for the children.”

Attorneys’ opinions about the information caregivers should receive also paralleled those of social workers. In general, they thought caregivers should receive all of the information necessary to care for the child (medical and educational needs, descriptions of emotional and behavioral issues, the reasons for removal, and the status of reunification), and they should get very little information about the birth parents. Several attorneys did note, however, that caregivers should receive information about birth parents if there was any sort of risk to the foster family or the child. As did social workers, attorneys cited issues of birth parent confidentiality as well as concerns that caregivers would not support reunification if they had too much information about birth parents. As one

put it, “Their minds will be tainted.” In the words of one birth parents’ attorney, “Foster parents shouldn’t have access to allegations. Otherwise we predispose average ‘Joe Schmoes’ who have a different picture of what a drug addict is like, and it’s unfair for parents because then they have a biased view.” Like social

“Foster parents shouldn’t have access to allegations. Otherwise we predispose average ‘Joe Schmoes’ who have a different picture of what a drug addict is like, and it’s unfair for parents because then they have a biased view.”

workers, attorneys tended to feel that caregivers were assisting and supporting reunification less than in the past. One commented, “Now foster parents put road blocks on reunification. I think there was more reunification (in the past) when they assisted.”

Attorneys varied widely in terms of what information they thought

caregivers actually were getting. Some noted, as did social workers and caregivers, that it depended on the case and on the individual social worker. County counsel, in general, thought that caregivers received a great deal of information, whereas children’s attorneys were more likely to echo caregivers in saying that caregivers do not get enough nor timely enough information in order to do their jobs as caregivers well. Birth parents’ attorneys were quick to point out instances in which caregivers had received copies of court reports that they should not have received. Children’s attorneys, in particular, tended to think it was important for caregivers to have more information about the court process and a better understanding of what brought a child into care. As one said, “There’s a lack of progress in the case by keeping the foster parents in the dark. There’s less confidence in the court system. We lose a lot of placements because of a lack of information.”

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Court Attendance

These attorneys said they seldom saw foster parents in court, and if they did attend court they tended to simply sit in the back of the room and observe the proceedings. Like social workers, the majority of county counsel and birth parent’s attorneys interviewed said they did not particularly want to see caregivers in court. Their primary concerns were that increased caregiver participation would

extend the court calendar and that it would result in more continuances because foster parents would bring up new issues. (The latter point seems to reflect an

“[T]hey don’t get to read court reports, no one explains the case to them, and they’re not trained to understand the process”

underlying opinion that social workers frequently do not report caregivers’ input when they write their reports.) Several attorneys noted that the more caregivers came to court the more attorneys would have contact with them, and thus the more likely caregivers would be subpoenaed as witnesses (in the attorneys’ opinions, a bad thing).

Finally, many attorneys pointed out that caregiver time is wasted coming to court—“they don’t get to read court reports, no one explains the case to them, and they’re not trained to understand the process”—so they leave no better informed than when they arrived.

Birth parents’ attorneys and county counsel raised concerns about caregivers’ emotionality (“foster parents are not able to hide their emotions the way lawyers are trained to do”), and they tended to believe that caregivers often wanted to be in court to show that they were better parents to the child than the birth parents.

Comments included: “Active participation—I don’t like it. When there’s a termination of services or a termination of parental rights, they’re gloating over the parents,” and “it comes down to a beauty contest, and it bothers me because the foster parents always win.” Several attorneys, like social workers, suggested that having caregivers in court would result in more conflict and less teamwork on cases. In particular, attorneys are very concerned about negative effects on the birth parent–caregiver relationship if birth parents and caregivers meet for the first time in court rather than at the social services agency. Two (children’s) attorneys were highly positive about caregivers attending court. One noted that caregivers can advocate for the child’s needs when the social worker is not there. The other commented, “They provide up-to-date information that is relevant to the child’s needs. If biological parents are troubled by it they need to get over it.”

As an alternative to court appearances, a number of attorneys suggested that caregivers should write a separate report to be attached to the social worker’s report. (Unlike social workers, who often said they wanted to

“They provide up-to-date information that is relevant to the child’s needs. If biological parents are troubled by it they need to get over it.”

get caregivers' information verbally, attorneys tended to say they would like information from caregivers in writing.) They felt that this strategy could result in a more well-rounded view of the case, since "if you just get the social worker's report it's not balanced." Several attorneys noted that caregivers already are able to write letters to the court, but that social workers do not inform them that they may do so. Many agreed that there should be a more structured method for caregivers to give information to the court, but for the most part that method need not involve appearing in court.

Regarding *de facto* parent status, many attorneys noted that caregivers become *de facto* parents primarily in order to obtain more information about their children's cases or because they are dissatisfied with the proceedings. "They use it as a mechanism to get information. A lot of times foster parents and *de facto* parents don't feel supported by the social worker." In general, these attorneys did not approve of caregivers being granted *de facto* parent status, arguing that it complicated cases and "creates a competition and changes the dynamics of the case." Several attorneys suggested that *de facto* parent status is appropriate, however, when caregivers fear that a child will be removed from their home or in the case of special needs or medically fragile children.

In summary, children's attorneys were the most likely to rely on information from caregivers in preparing for court. The types of information they found useful from caregivers centered on the development and adjustment of the child and were similar to the sorts of information social workers thought was useful. Attorneys tended to stereotype caregivers depending on whether they were "professional foster parents," fost-adopt parents, or kin caregivers, and they were likely to discount information from fost-adopt and kin caregivers—especially information about birth parents. Attorneys' opinions about what information caregivers should receive paralleled that of social workers. Most attorneys agreed that caregivers should receive as much information as possible about the child and very little information about birth parents, so as not to discourage them from supporting reunification. Attorneys were mixed in their opinions about whether caregivers were actually getting the information they needed, with children's attorneys (who were most likely to have contact with caregivers) arguing that they did not receive enough information and did not receive it in a timely way. Like social workers, parents' attorneys and county counsel were not enthusiastic about caregivers attending court. They raised many concerns, including issues of birth parent confidentiality, demands of the court calendar, and caregivers' emotionality, lack of objectivity and poor understanding of the law. Children's attorneys, on the other hand, were more open to court participation by caregivers. Attorneys for all

parties believed that caregiver input was important and welcome and suggested that there be a more structured way for caregivers to provide information to the court.

JUDICIAL OFFICER INTERVIEWS

To develop a better understanding of judicial decision making in dependency court, and to explore judicial officers' perspectives on caregiver involvement in court, 11 dependency court judges, commissioners, and referees representing the four study counties were interviewed one-on-one. (Note: for ease of reading, all of the judicial officers are referred to as judges in the summary below.) The interviews centered on the usefulness of information from caregivers in making decisions about children in care, and on their opinions about caregivers in the courtroom.

Information Sharing

Most of the judges were open to receiving virtually any information caregivers were willing to provide, not only information about the children but also opinions about whether to expand or contract visitation with birth parents, whether children should have contact with siblings, and whether parents and children were ready to reunify. Several judges also noted that if an agency is about to remove a child from a caregiver's home and the caregiver does not agree with the move, they would like to hear from the caregiver as to why. Several judges said that it is particularly important for caregivers to give information to the court when they don't trust that social workers are passing on the information to the court. A number of judges did comment on potential biases in caregiver information,

“[The court] never gets a full picture of the child—there are more people paying attention to the parents.”

particularly about birth parents, but most said they would prefer to receive information even if it is potentially biased. Judges are experienced at sifting through conflicting information, and as one judge pointed out, they would not be doing this work if they did not want to “get to the bottom of what is happening” in order to help children. Several judges said that receiving input from caregivers had decidedly changed the course of some of their cases. One related, for example, that the foster parent of a medically fragile child came to his courtroom several times and she told him more about the special needs of that child “than anyone else in the courtroom.”

Judges like to get specific information about children such as their health and educational needs, peer relationships, behavioral patterns (for example, whether the child is sleeping well), and any issues that are troubling the child. They want a sense of the child as a person and they want to know “how a child is doing on a day-to-day basis.” Caregivers can help to make the child “a real person” for the court. As one judge stated, the court “never gets a full picture of the child—there

are more people paying attention to the parents.” Judges want to hear “simple things like ‘this is a very happy child,’ or ‘this child really enjoys her dance class,’ or ‘this child needs orthodontia.’” Judges see caregivers as providing information that is important to the child that may not be important to the social worker who may not include it in a report. “Usually it’s only the foster parents who bring up things like the child needs braces, or he wants to go to camp,” said one judge. In the case of older children, caregivers often are in a unique position to be able to tell the court what the child wants, because the children confide in them. In cases where caregivers are supervising visitation, judges want to hear from them how the visits are going. They want to know if the visitation schedule is working out for the families and the children. (Several judges noted that it is much easier to work out visitation schedules if everyone involved, including the caregivers, are in court.) Judges definitely want to hear whether the child needs any additional services.

Judges generally see caregivers as a good and credible source of information about children in their care, especially if the caregivers keep good records. Although they are open to hearing from caregivers about other aspects of the case, they tend

to find caregivers less credible when they venture into areas of the case other than information about the child. As one judge put it, “If they are talking about something other than the child, they probably shouldn’t comment.”

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The judges tended to say that they saw virtually no differences between the various types of caregivers—foster parents, fost-adopt parents, kin caregivers, and *de facto* parents. “Whatever category they fall into, if they can provide a better understanding of the child that helps the court,” said one. Another commented

“Whatever category they fall into, if they can provide a better understanding of the child that helps the court”

that “it really depends more on the nature of the case and the personalities of the people. After all, they haven’t categorized themselves by some sort of legal definition—we’ve done that.” Some, however, clearly differentiated between caregiver types.

- Several cited concerns that information from fost-adopt parents can be biased against the birth parents. One judge commented in particular that fost-adopt parents need to be better trained to understand that the courts do not hold birth parents to the same high standards that they require of

adoptive parents. In addition, several judges noted that these parents are so emotionally invested that they can become very angry when things do not go the way they think they should.

- Long-term foster parents tend to be perceived by judges as more clear in their role as caregivers and having more realistic expectations about their cases. They tend to have good support systems and to know how to advocate for children and access services.
- Kin caregivers are a “mixed bag” for judges. They can provide a great deal of information about the family, but they can also be “co-dependents” for the parents. Emotions tend to run high in these families because they are in crisis, and this can color kin caregivers’ interactions with the court. Also, kin caregivers tend to have a greater sense of “entitlement,” because they are “blood relations.”
- While *de facto* parents have a right to present evidence in court, judges said they varied in whether they actually did so. *De facto* parents were described by one judge as more demanding of social workers than other types of caregivers. Judges varied in their willingness to grant *de facto* status, with those who don’t like to grant *de facto* status believing that it tends to make the cases more factionalized and adversarial. One judge, however, said she prefers to grant *de facto* parent status, because then caregivers have a real role to play in court proceedings.

Judges were mixed in their views of how best to transmit caregiver information to the court. One judge strongly preferred for caregivers to come to court. She liked to get an intuitive sense of what the caregivers were like from seeing them in person, and she wanted them there to answer questions and provide clarity. Several judges said that whatever way was easiest or most convenient for caregivers was fine with them. On the other hand, most said they much preferred to have input from caregivers in writing. Several judges thought that while a written report should be as simple and easy as possible for the caregiver to complete, it should definitely be mandatory. The perceived benefits of written reports included providing a process whereby the caregivers could think through what they wanted to say (thus improving the quality of the information), and that it would allow all parties to read through it ahead of time in order to be better prepared for court. One judge noted that caregivers tend to be nervous in court and so will not express themselves as well orally as they would in writing. Many of the judges suggested that caregivers could write reports similar to those provided by CASAs (Court Appointed Special Advocates). In general, the CASA

reports tended to be very highly regarded as giving the judge a good representation of the child and his or her needs. One said he would be satisfied if social workers included a specific section in their reports that summarized caregiver input.

In terms of the information caregivers should receive, virtually all of the judges mentioned the child's health and educational status and needs, and many noted that caregivers often do not receive all the information they need. Judges felt that caregivers should get copies of the court's findings and orders, particularly orders regarding parents' visitation or regarding children's special needs, especially educational needs. Caregivers need to know why the child is in care, and they need to be informed of any potential harm that the child might cause or any safety issues relative to the birth parents. One judge said caregivers should be given photographs of birth parents so they could recognize them if they showed up at the caregiver's home.

Judges views were mixed on whether caregivers should have access to case plans and to the kind of information about the birth parents that is included in court reports. Some felt strongly that caregivers should not have access to court reports, citing concerns about birth parents' privacy and about "creating a negative mindset" among caregivers regarding birth parents. As one judge put it, "Ordinary citizens do not understand the level of abuse these children have endured. If they knew what was happening with these parents it could create problems." A number of judges said, however, that caregivers should receive information about birth parents that is "necessary to understand the child's behavior." Others said that caregivers should get "everything there is to know" in order to care for the child. Several said that if there will be contact between the caregivers and the parents (in particular, caregivers will supervise visitation), the caregivers need to know much more about the parents.

When asked about issues of confidentiality, the judges who were in favor of releasing information to caregivers noted that confidentiality is not the big issue that social workers and attorneys make it out to be.

Comments included "people say they are worried about all these confidentiality issues, but 95 percent of the time people on all

“[P]eople say they are worried about all these confidentiality issues, but 95 percent of the time people on all sides are professional and we need to trust them”

sides are professional and we need to trust them,” and “the confidentiality issue is a ‘red herring.’ In delegating the responsibility for caring for the child to the foster parents, they are brought in under the confidentiality umbrella.” One judge

suggested that while there is not justification for keeping caregivers out of the court process based on confidentiality concerns, there should be a mechanism by which foster parents would be prosecuted if they breached confidentiality.

Finally, judges thought that caregivers should have training in the dependency process, so that they could better understand what happens with their cases. Several judges commented that caregivers come to court not knowing what to expect and with little sense of the court process. A lack of understanding of the process results in caregivers wanting or expecting things to happen that the court cannot control.

Court Attendance

The judges that were interviewed for this study, across the board, stated that caregivers were welcome in their courtrooms (“it’s their court system—they ought to have access”), and many of them also said it was useful to them for caregivers to be there. However, it is important to note that the four counties for this study were chosen, in part, because judges were open to the idea of increased caregiver involvement in the courts. Judges said that they see kin caregivers in court more often than nonrelatives. A number of judges commented that caregivers rarely come to court and if they do they frequently do not say anything. Caregivers typically do not speak in court unless judges invite them to speak. Although all the judges said caregivers were welcome, several noted that they do not invite them to speak. A number of judges commented that they would prefer to have caregivers’ input in writing rather than to have them speak in court. As one put it, “Foster parent input is valuable, but we can’t have it be a platform for them to blather on.”

“Foster parent input is valuable, but we can’t let it be a platform for them to blather on.”

“We have delegated to them the responsibility for caring for the child. It is contradictory to delegate such a substantial responsibility...and then to exclude them from the process.”

The primary perceived benefits of caregiver involvement in court centered on receiving the “specialized knowledge gained from caring for the child” and recognizing caregivers’ important role in the child welfare system by allowing them to participate in the process. As one judge noted, “We have delegated to them the responsibility for caring for the child.

It is contradictory to delegate such a substantial responsibility...and then to exclude them from the process.” Another judge commented that having

caregivers participate in court is very much in line with the court's philosophy of mediation and family group conferencing. Another judge noted that he simply likes to be able to tell foster parents, "Thank you. I appreciate the care you are giving this child." Judges were also open to caregivers coming to court to ask questions. "When they ask questions, they generally are legitimate questions," said one. One judge commented specifically on the usefulness of having kin caregivers come to court, because it gives her an opportunity to explain the court's expectations to them. Often kin caregivers have "split loyalties," to the child and to the birth parent, and if they come to court the judge can reinforce the importance of following orders such as not allowing unsupervised visitations.

Comments such as "foster parents are almost always helpful. At the very least they cause no harm" were typical. Another said, "I'll take my chances that they offer something irrelevant. We all

bring in some bias. Most people who care enough to come to court seem to be sincere folks." One judge said, "Sure there are times when it is not useful, but it can also be not useful to have lawyers in the courtroom." One judge noted that even when caregivers

are disruptive, belligerent, or unfocused, it is still helpful to see them in court because it gives her an idea of the kind of situation in which the child is living. However, other judges said that they do not want fighting in their courtroom and they would exclude caregivers if the situation becomes heated. Kin caregivers, in particular, often come to court upset and angry with the birth parents and they sometimes have to be asked to leave.

Many of the judges did comment on the tensions inherent in concurrent planning and how difficult it is for caregivers to support reunification if they have committed to adoption in the eventuality that reunification does not occur. Several judges noted that having caregivers in the courtroom in such cases may cause problems. One cited as an example a case where the foster-adopt parents came in early in the case (at the 90-day review) and requested *de facto* parent status, which caused a great deal of tension and antagonism between the birth parents and the foster parents. Another said that judges have to be aware that foster parents can sabotage the birth parents. One judge said that it was more useful to have caregiver participation later in the case, especially if there were hotly contested issues around the time of the termination of parental rights. For her, it was less appropriate for caregivers to be involved early because "some hard lines can be

"I'll take my chances that they offer something irrelevant. We all bring in some bias. Most people who care enough to come to court seem to be sincere..."

drawn,” and caregivers can be accused of not supporting reunification. Still, most of them did not see these tensions as a reason to exclude caregivers from court. One judge said, for example, that even if the caregiver does not support reunification and other system participants do not want to hear this, it is important for the court to hear it. She cited a case in which the parents contested the termination of rights on the grounds that the child is not adoptable. “If the foster parents show up and say they want to adopt the child, that tells me the child is adoptable.”

Several judges suggested that tensions between caregivers and social workers are more of a problem than those between caregivers and birth parents. One suggested that social workers and caregivers often seem to be in a power struggle, and that he often hears from frustrated caregivers who come to court that social workers told them they did not need to come, were not required to come, and there was no reason for them to be there. He went so far as to say that social workers “get between” caregivers and the court and that information from caregivers may not get to court because of social workers. He also felt that caregivers and birth parents “should be working together unless there is a proven safety issue, but that social workers discourage them from doing so.” Another judge said that the basic problem is that the relationship between foster parents and social workers is not one of trust. Still another judge described a “simmering undercurrent” between social workers and relative caregivers in particular, and he said that social workers don’t tell these caregivers what is going on because they don’t want them in court. While recognizing the problems inherent in the social worker–caregiver relationship, judges did want to be certain that if caregivers had problems with social workers that they try to resolve them through the agency before coming to court.

Concerns about the demands on the court calendar that frequently were raised by attorneys were confirmed by some judges and dismissed by others. In general, challenges to the court calendar were not high on the list of judges’ concerns. The majority of judges felt that if a caregiver goes to the trouble to find childcare, travel to court, and wait sometimes hours for the case to be called, it is incumbent on the judge to hear what he or she has to say. As one put it, “Judges shouldn’t be saying, ‘Let’s not get good input because I am too busy.’ That’s morally wrong.” Several noted that it may take more time to include caregivers, but if the judge handles the calendar well it should not be an overwhelming problem. Others commented that caregiver participation can slow things down a bit in the short term, but it is more efficient in the long run because future hearings run more smoothly.

Judges were asked whether a trend toward more caregiver participation in court would be regarded positively in terms of judicial decision making.

Overwhelmingly, these judges said yes. These judges definitely want to know more about the children in care, and they believe caregivers have the best information about children. Typical comments included “the best court orders are based on the truth, and foster parents can help

provide information for the court to make the best orders,” “the court needs the best information it can get because we’re trying to make the best decisions about kids here,” and “the court can’t lose by getting more information about

“[T]he court needs the best information it can get because we’re trying to make the best decisions about kids here”

the child.” Not only do judges value what caregivers have to say, but they also feel an ethical obligation to hear it if caregivers make the effort to provide it.

Several judges pointed out that the court is there to serve the community and that caregivers are important members of that community.

In summary, judges clearly indicated that they want to receive information from caregivers, particularly any information that can humanize the children and help the judge understand their needs and the quality of their day-to-day lives. Many were open to receiving other feedback (for example, information about birth parents) from caregivers, but they approach this type of information carefully and give less weight to it than comments from social workers and attorneys. While these judges all said they welcome caregivers in court, the majority preferred to receive input from them in writing rather than orally. This was not due to concerns about demands on the court calendar, but rather because all parties to the case would be better prepared by receiving something in writing in advance of hearings. Many judges suggested that caregivers should regularly submit reports to the court, and several argued that these reports should be mandatory. Judges agreed that caregivers should receive as much information as possible about the children in their care, but they had mixed views regarding how much information they should have access to about birth parents and about case plans. Birth parents’ privacy was cited as a concern, along with concerns about negatively influencing caregivers’ opinions about or relations with birth parents. Judges commented on the tensions between caregivers and birth parents that can be inherent in concurrent planning, but they also noted that tensions between social workers and caregivers may be much more of a problem than the relationships between birth parents and caregivers.

CONCLUSIONS AND RECOMMENDATIONS

The primary purpose of this study was to examine quantitatively how training in the dependency court process affects caregivers' knowledge and attitudes about participating in court and the likelihood that they will participate. It is important to reiterate that the caregivers who attended the Caregivers and the Courts training were a self-selected sample of individuals who received information about the training and who attended voluntarily. Thus they cannot be considered to be representative of all caregivers in the counties studied or of caregivers overall. Still, the findings presented here suggest very strongly that caregivers want to and can learn and retain relevant knowledge that will assist them in participating effectively in court.

In addition to the primary study objective, this study also began to explore what factors determine how information from caregivers is or could be used in decision making regarding children in care, and what effects might caregiver participation have on the well being of those children. These findings are, of course, qualitative, and thus cannot be assumed to be generalizable to all cases, caregivers, social workers, attorneys, or judges. They do, however, richly illustrate some of the experiences and views of court participants, and they raise important questions for future research and policymaking.

This section addresses each of the three major research questions in turn, summarizing the conclusions and making recommendations for changes in court procedures, training of system participants, and further research that can build on what has been learned from this study. An overarching recommendation, however, is that a multidisciplinary panel, or "stakeholders' meeting," consisting of judicial officers, attorneys, social workers, caregivers, and researchers be convened to review the issues raised by this study and recommend next steps. Since many of the concerns raised here require solutions that depend on coordination and cooperation among the various juvenile system participants, such a response seems essential.

How does training in the dependency court process affect caregivers' knowledge about participation and the likelihood that they will participate?

Conclusion: The Caregivers and the Courts training was found among this sample of caregivers to dramatically increase their knowledge of rights to receive notice and be heard and of the legal process, and these gains in knowledge were retained after the training. In addition, several case study participants noted that they continued to refer to the training materials to answer questions that arose as they participated in court. All system participants agreed that caregivers should have more training regarding the courts. A number of issues arose in discussions with system participants that pointed to areas where the training might be expanded.

Recommendation: Because the training was so effective with this particular sample of caregivers, it should be extended to other counties and assessed to determine whether it is as effective with a larger population of caregivers. **Items that might be added to the training curriculum include:**

- **Identifying the specific hearings that are most appropriate or useful for caregivers to attend;**
- **Describing the role of each system participant (county counsel, birth parents' attorney, child's attorney, CASA, social worker, court liaison, and judicial officer) and clarifying what information each participant typically has and needs regarding a case;**
- **Offering "field trips" to court (in person or video) to familiarize caregivers with what actually occurs in the courtroom;**
- **Outlining the standards for reunification with parents in comparison to the standards to which caregivers are held; and**
- **Defining what the court can and cannot order to happen in specific cases (perhaps using case study examples);**

Specialized training and support may be needed for foster-adopt parents and kin caregivers to address specific issues that arise in these placements, particularly regarding the need to support reunification, developing good working relationships with parents, and resolving problems that may arise during the transition from the caregiver back to the parents.

Conclusion: It appears that participation in training increases the likelihood that caregivers will attend court, although it is not possible to state with certainty because the study did not use a random sample or a control group. When considering the possibility of increased caregiver involvement in the courts, attorneys tended to express concerns about demands on the court calendar, and social workers tended to be concerned that caregivers would come to court with information that the social workers had not been privy to in developing their case plans and court reports. In general, judicial officers welcomed increased caregiver participation in the courtroom, but many of them suggested that it might be most effective for caregivers to provide their input in writing either prior to or as an alternative to appearing in court. Several case study participants also stated a desire for a more structured means for providing written information to the court.

Recommendation: Before taking the training to scale, a panel of judges, attorneys, social workers, and caregivers should be convened to think through the logistics and implications of large increases in the numbers of caregivers appearing in court. Caregivers should be encouraged to provide information to the court using the new Caregiver Information Form (JV-290), so that they do not arrive at court with information that the parties have not previously been provided with. Training should be offered on how to distribute the form to all parties and how to present the information in court, if desired.

Conclusion: Caregivers are interested in *de facto* parent status, and anecdotal information suggests that training and/or participation in court may increase *de facto* parent applications. Caregivers typically apply for *de facto* parent status because they want access to information about the case, particularly court reports, and they want to be able to be a party to the case. However, the case studies suggest that the extent and type of participation of *de facto* parents varies among jurisdictions and among individual departments within a jurisdiction. Thus some *de facto* parents are active parties to their children's cases and others continue to simply be observers in the back of the courtroom. In one case, the foster parent was told by an attorney she could not be present in the courtroom unless she had *de facto* parent status.

Recommendation: If a primary goal of caregivers in applying for *de facto* parent status is simply to receive copies of court reports, the courts should consider whether some or all of the information in these reports could

routinely be provided to caregivers. In addition, all system participants, not just caregivers need to be trained that caregivers do not need to have *de facto* parent status in order to participate in court. Caregivers should have access to an attorney advisor not affiliated with any cases who could answer general questions regarding court participation.

Conclusion: Participation in the training by families licensed through foster family agencies (FFAs) was low, so it is difficult to determine the effectiveness of the training for these families.

Recommendation: Recruitment for future trainings should focus on obtaining a wider participation from FFA families. Experts familiar with the specific issues of FFA agencies and families should be utilized to develop a better understanding of how to best meet their needs.

What factors determine how caregiver information is used in decision making?

Conclusion: All the system participants interviewed indicated that they would like to regularly receive information from caregivers about the child's development, needs and adjustment to placement, and whether additional services are warranted. Children's attorneys, in particular, would like to hear from caregivers more than they do currently. In several of the case studies, caregivers' contacts with the children's attorney provided the attorneys with important information about the child and appeared to affect the outcome of the case for the benefit of the child.

Recommendation: Attention should be given to how to strengthen the information exchange between caregivers and children's attorneys. Caregivers should routinely be informed as to who is the child's attorney and how to contact him or her. Social workers should be trained that such contact is appropriate and in the best interests of the child.

Conclusion: System participants sometimes discount information from caregivers because they think caregivers have a bias against birth parents or a "hidden agenda." While caregivers can and do have biases, judges are quick to point out that so do other court participants. Caregivers, on the other hand, often think that

system participants do not recognize and appreciate that their cases involve real children who are harmed by decisions that are made without consideration of their individual situations.

Recommendation: Court participants should have opportunities to better understand the caregivers' perspective and in particular the heightened emotionality that comes from caring for a foster child day-to-day. Courts, dependency court attorneys, and social services agencies should seek out opportunities to interact with caregivers on an informal basis, such as during brown bag lunches or caregiver "field trips" to the court.

Conclusion: Judges cannot utilize caregiver information if they do not they get it. In many cases caregivers came to court but did not speak. Caregivers indicated that they would like to speak in court, but did not wish to interrupt the proceedings at an inappropriate time and did not know when was the appropriate moment to make a comment. Few of the judges who were interviewed routinely asked caregivers who came to court if they had anything to say. In the one case observed where a judge routinely asked for input from the caregiver, that input definitely influenced the judge's decisions, for the benefit of the children.

Recommendation: If a caregiver is in the courtroom, the judge should routinely ask whether she or he has anything to add. In addition, caregivers who plan to attend court should be trained to know the appropriate time in the proceedings to make a comment.

Conclusion: Social workers varied in the extent and type of information they gave to caregivers and that they wanted to receive from them, and they were at times unsure about what information they were actually allowed to give them. They tended to discount input from caregivers that had to do with case planning or negative information about birth parents.

Recommendation: Standards should be developed regarding what information social workers should share with caregivers and how it should be shared. Caregivers should be trained in how to better provide information to social workers, in particular how to provide factual information as opposed to unsubstantiated opinions.

Conclusion: Feedback from both caregivers and social workers suggest that social workers are resistant to the idea of involving caregivers in case planning and in court.

Recommendation: Caregivers who wish to be involved in case planning and in court may benefit from specialized training in how to work with other juvenile system participants. This training would include a greater focus on understanding standards for reunification, what it really means to support reunification, building conflict resolution skills for working with other system participants, and a better understanding of the case planning and court processes. Such training could be provided through the community college system, since the colleges already provide post-licensing training for foster parents. Training could be provided in the context of a certificate program that recognizes caregivers who have completed college training and allows them to accrue college credits. Caregivers who are involved in case planning and in court should be trained in how to report on relevant issues such as the child's educational and medical needs, status assessments of the child's development and emotional state, and birth parent visitation. In developing case planning and court training curricula, an investigation could be made into fields that utilize paraprofessionals in order to develop insights into how caseworkers and caregivers might better work together.

Conclusion: The flow of information between caregivers and social workers varied greatly depending on the particular social worker's views on caregiver involvement in case planning and the nature of the relationship between the individual social worker and caregiver. In addition, social workers sometimes felt threatened by the idea of caregiver participation in court, because such participation can further undermine social workers' already low sense of efficacy in court. Many caregivers believed that social workers did not want them in court, and in several case studies the social workers discouraged the caregivers from attending court.

Recommendation: Attention should be given to the social worker-caregiver relationship and to supporting social workers so that they are more effective in dealing with the courts. Training for social workers (within agencies and at social work schools and training academies) should focus on helping social workers understand the benefits of increased caregiver involvement in court, and assisting them in facilitating relationships with caregivers and in

effectively using caregivers as a resource for the benefit of the child. In addition, a legal resource manual and legal training designed specifically for social workers should be developed to increase the comfort level of social workers in their dealings with the courts. Finally, social worker training should address the fundamental differences between the adversarial legal model and the collaborative social worker model, so that social workers and attorneys can better benefit from each other's expertise.

What effects does caregiver participation have on the well being of children in care?

Conclusion: Judges say that when they hear from caregivers it humanizes the child for them and makes the child "a real person." This, in and of itself, suggests better outcomes for children. Several judges recounted stories of caregivers providing information in court that changed the course of the case, for the benefit of the child. Many system participants say they prefer to get information from caregivers in writing rather than having them come to court, but often writing about a child and his or her situation does not bring their situation to life in the way that talking about them does.

Recommendation: The caregiver report should be required for all review hearings. Caregivers should be trained in how to complete and present the report in a timely and succinct way, and they should be encouraged to attend court to do so.

Conclusion: The case studies indicated that in some cases caregiver participation in court can have a profound impact on outcomes for children, because such participation provided the court with essential information that otherwise would not have been forthcoming. In other cases, the caregivers attended court simply to observe and to get information about the case. Those caregivers felt they benefited from getting more information, but whether it changed the outcomes of the cases is unclear.

Recommendation: If caregivers attend court, they should be encouraged to speak and truly participate. Real participation will require courts to rethink aspects of the process such as where caregivers are seated, how they are announced, and how other participants respond to their presence.

In conclusion, this study has shown that at least some proportion of caregivers want to attend and participate in court; that through training they can greatly increase their knowledge of and comfort with the court process; and that they can effectively participate in court, both in writing and in person. In addition, interviews with system participants as well as observations of caregivers in court indicate that judges, attorneys, and social workers do utilize information from caregivers in decision making, and that caregiver participation in court can positively affect outcomes for children in foster care. This study has also identified a number of issues that will need to be addressed in order to ensure that information from caregivers is utilized effectively. As the courts continue to move forward with implementing ASFA, increased attention to caregiver participation in court will present some challenges, but ultimately such participation appears to be beneficial for, and in the best interests of, children in foster care.

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