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## Arranging Your Courtroom to be a More Effective Judge

**R**ecently I visited a courtroom where juvenile dependency cases were being heard. Several attorneys sat at the tables in front of the judge, about 20 to 25 feet from the bench. Ten to fifteen feet behind them the parents sat. When the court called the case, the attorneys stood and discussed the matter with the judge. Thereafter, the judge requested the parents to stand to ask them a few questions. After the hearing ended, the parents left while the attorneys remained.

I have observed similar courtroom configurations and exchanges in many courtrooms I have visited over the past 45 years. Little has been written on courtroom configurations, particularly in juvenile dependency cases, but this is an important topic. In my opinion, the courtroom setup I described reduces parental participation in the proceedings and diminishes the impact the judge may have on the parents. It gives the impression that these legal proceedings exclusively involve the judge and the attorneys, and that the parents are an afterthought – after the judge and attorneys have completed their discussion and settled the “important” issues. This process most likely leaves the parents with the impression that they are not as important as the attorneys in the court proceedings.

I do not consider this to be good practice. I believe these proceedings

should be conducted with more attention to the judge-parent interaction. Juvenile dependency proceedings focus on the parent-child relationship. Parents are in court because they failed to provide a safe environment for their child, and the state has intervened in order to protect the child. The state has enacted dependency laws to protect children and to encourage parents to change their behavior with the hope that the court can safely return the child to parental custody. Dependency proceedings are civil in nature, but unlike other civil cases, parental attitudes and behaviors are critical to the case outcome.

Parents should be in the front row of these proceedings, next to their attorneys, close enough to have direct eye contact with the judge, and to be able to talk with their attorney during the process. The judge should let the parents know by words and attention that the judge is concerned about the situation that brought their child to the attention of the court. The judge should ask questions, clearly explain the orders, and stress the importance of following court orders, including full participation in services the parents have been offered. The judge should inquire if the parents need any support to accomplish these court orders, such as transportation or shelter. The judge should also make certain that the parents acknowledge that they

understand what the judge is saying and agree to follow the plan that has been discussed in open court. Eye contact between the judge and each parent emphasizes the judge’s interest in the parents and their understanding of what the judge is saying. Failure to engage the parents effectively at the initial hearing may result in the parent not taking the proceedings seriously, or not understanding the court’s orders. Some parents return to court months later and have done no work on their case plan only to realize that their parental rights are at risk. This should not happen.

Judges are powerful people. They command respect from those who appear before them. The robed judicial officer is our society’s symbol of the law, a symbol embedded in our culture. Appearing in court can be a frightening experience, especially for the often marginalized and disenfranchised population that appears in child welfare courts. When a child has been removed from the parental custody, the legal proceedings are even more frightening, and the judge takes on an even more important role in family life. Judges should take advantage of this moment. It will be unforgettable in the parents’ lives. When the judge indicates clearly what the parents must do in order to reunify with their child, the parents will listen. They often

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will repeat in subsequent hearings that the judge said early in the case. “Judge, I did what you told me to do” is a refrain many judges hear.

Terrible things have happened to children whose cases come before the juvenile dependency court. The judge may feel revulsion or anger about what has allegedly occurred. The parents may also be in custody facing criminal charges and feel ashamed about appearing before a judge concerning their behavior towards their child. Yet juvenile dependency court hearings are not about punishing the parents for their behavior, and dependency judges need not address criminal outcomes. These hearings focus on the child’s safety, parental behavior, and whether the parents can make changes so that reunification with their child is possible. Except in the most egregious cases,<sup>1</sup> judges should tell the parents that family reunification is the goal of the proceedings and their actions regarding offered services will be critical in the court’s reunification decision. Sitting directly in front of the court and engaging in a conversation with the judge will enhance the impact of these messages.

Taking your time and approaching each parent with compassion and accountability results in a huge pay off. Many juvenile court judges have had the pleasure of having a parent come up to them and ask if the judge remembers them. Often the judge has no recollection, but the individual certainly does. He or she is there to tell the judge that what the judge said and what the judge ordered were successful – that the individual has had some significant success in his or her life and that the judge had something to do with it. When the judge has effective communication with the person before the court, it is more likely that the person will remember and understand the message and the judge and will make changes in his or her life that lead to a successful

outcome. This is particularly true at the initial (detention) hearing where I often heard a client say: “Judge, I will do anything to have my child returned to me. Just tell me what to do.”

However, some parents do not understand the importance of the legal proceedings (losing one’s parental rights and adoption). The judge plays a critical role in explaining the possible consequences of the proceedings and the importance of making changes in order to provide a safe home for the child. The judge cannot deliver these messages effectively to parents who are sitting in the back of the courtroom. These require a more personal communication, a closer distance between the judge and the parents. Courtroom organization that places the parents directly in front of the judge and judicial attention to clients can maximize the possibility of successful reunification in these cases. For many parents the judge’s words become the fresh start the parents need to show that they are capable of change.

Judges should examine their courtroom to determine whether the configuration maximizes their ability to talk to the parents meaningfully. In some of the courtrooms I have visited over the years, it would not take a great deal of work to reconfigure the furniture so that the parents sit directly in front of the judge. This is a modest suggestion, but one that may have a significant impact on the parents’ attitude and involvement in the case. 🌐

#### Endnotes:

- 1 When aggravated circumstances are alleged in the petition, it is possible that no reunification services will be offered. The judge should still encourage the parents to participate in whatever services are offered including visitation, if offered, until it is determined whether the case will proceed directly to a permanency hearing.