



Compassionate Lawyering: A New Lens For Legal Representation in Child Welfare Cases

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Reality
Check

**If They Want a War,
We Will Give Them a War.**

CONTACT US NOW

For a Free Consultation

A man in a dark suit, light blue shirt, and red tie is shouting with his mouth wide open. He is standing in front of a large, dark, textured wall, possibly a stone or brick wall. The background is slightly out of focus, showing some red and green elements.

**CALL ME
AND I'LL
HAMMER!**

Lowell "The Hammer" Stanley

459-CASH

aka: 245-CASH



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Does this
approach
harm
families?

The background image shows the silhouettes of two people, a man and a woman, standing with their backs to the camera. They are holding hands and have their arms raised high in the air. The scene is set against a bright sunset or sunrise sky, with the sun low on the horizon, creating a warm, golden glow. The overall mood is one of triumph, unity, and hope.

We have shared goals in child
welfare cases

And a collective responsibility

Key Principles of Relational Advocacy

Proximate With People

Preventive Lawyering

Proactive Problem-Solving

Prioritize Relationships

Project Compassion

Proximate

“If you are willing to get closer to people who are suffering, you will find the power to change the world.” Bryan Stevenson



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Families have the ability
to raise their children if
given equal
opportunities and
support

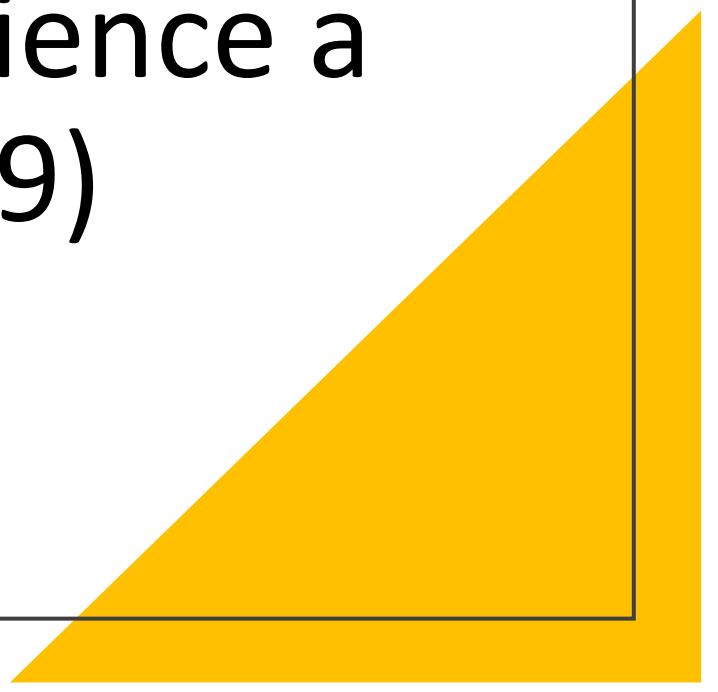


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Zip codes matter

1 out 3 children living in neighborhoods with a poverty rate greater than 20% will experience a CPS investigation (Fong 2019)

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Inequitable
opportunities
we have
created drive
CPS
involvement

- Income
- Housing
- Jobs
- Incarceration
- Health care
- Education
- Community-level resources

The Research

- “[H]ousing instability [was] . . . positively associated with maternal stress, and, through that pathway, in increases of both abuse and neglect risk as well.” (Warren et al, 2015)
- Statistically significant correlation between “increases in **child health care coverage** rates, including both private coverage and Medicaid coverage, and decreases in child physical abuse.” (McCray, 2018)
- **Neighborhood poverty** was “a risk factor for children and that it [was] associated with all types of child maltreatment.” (Drake and Pandey, 1996)
- Children who attended **Early Head Start programs** “had significantly fewer child welfare encounters between the ages of five and nine years than did children in the control group.” (Cohen et al, 2015)
- Poverty and neighborhood disadvantage are “**the most consistent and strongest**” predictors of CPS involvement (Cameron and Freymond, 2006)

PREVENT

What role can lawyers play to create a world where fewer families are referred to Child Protective Services?

CPS Referrals

- 1/3 of children will be subject to a CPS investigation by age 18
- Over 50% of black children
- CPS does not substantiate 83% of allegations

Why people report?

Over 75% of reports to CPS are for allegations of neglect

“Reporting professionals who encountered families facing adversities such as poverty, domestic violence and substance abuse framed parents not as unequivocally dangerous, but as needing additional interventions to care for their children.” (Fong 2020)

“I felt like this was the time to get some support in for the family. I figured CPS can provide that for them or whatever it is that they’re lacking or need support in.” (Fong 2020)

Figure 2

Social Determinants of Health

Economic Stability	Neighborhood and Physical Environment	Education	Food	Community and Social Context	Health Care System
Employment	Housing	Literacy	Hunger	Social integration	Health coverage
Income	Transportation	Language	Access to healthy options	Support systems	Provider availability
Expenses	Safety	Early childhood education		Community engagement	Provider linguistic and cultural competency
Debt	Parks	Vocational training		Discrimination	Quality of care
Medical bills	Playgrounds	Higher education			
Support	Walkability				
Health Outcomes Mortality, Morbidity, Life Expectancy, Health Care Expenditures, Health Status, Functional Limitations					

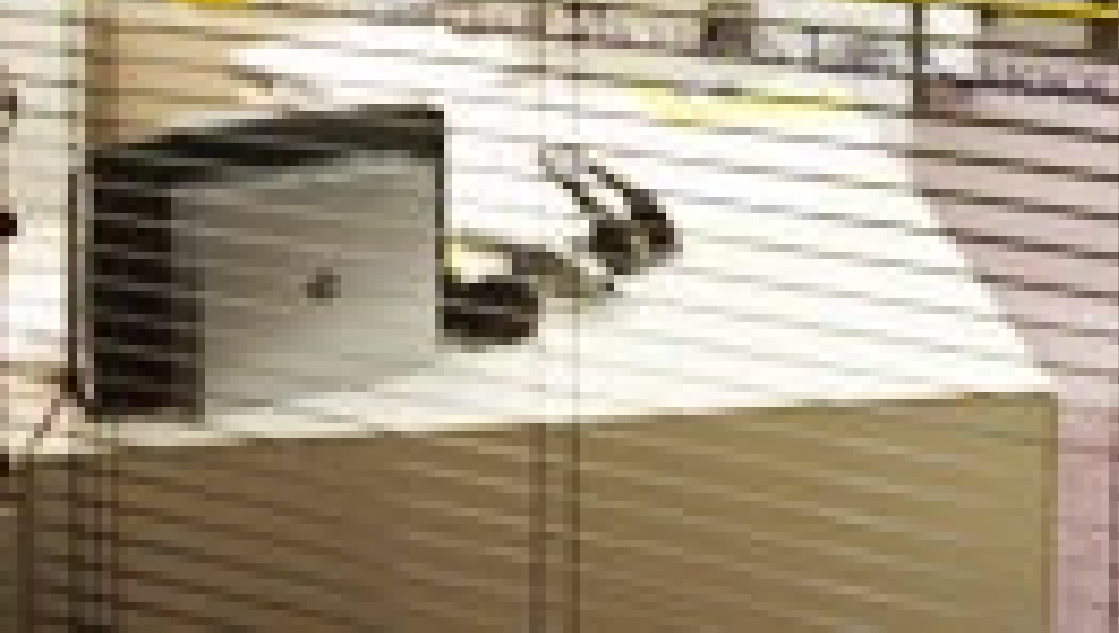
The CPS Process Is Traumatic

- Fear
- Anxiety
- Lack of Trust


“When education, healthcare, mental health and social service systems channel families to state surveillance that threatens child removal, they may distance families from the systems tasked with assisting them.” (Fong 2020)

Detroit Center for
Family Advocacy

M Michigan Law



Emerging Models

- Preventive Legal Advocacy – school-based legal clinics, medical legal partnerships, neighborhood legal clinics for families
 - Pre-Petition Legal Advocacy – partnerships with legal aid, warm lines, collaborations between CPS and lawyers
 - Post-Petition Collateral Legal Advocacy
- 
- A large yellow right-angled triangle is positioned in the bottom right corner of the slide, pointing towards the top right.

Problem Solving Attorney



Proactive



Mindful



Strengths Based



Recognizes Language Matters



Understands Short And Long-Term Goals



Trauma-informed To Help Families Heal



Trauma informed care
means...

Realize impact

Recognize Signs of Trauma

Respond

Resist Re-traumatization

Principles of Trauma Informed Care



1.Safety

2.Trustworthiness and Transparency

3.Empowerment, Voice, and Choice

4.Collaboration and Mutuality

5. Peer Support

6.Cultural, Historical, and Gender
Recognition



Prioritize
Relationships



Loss

- Ambiguous loss can “raise lifetime of questions for children about their identities.” (Samuels 2009)
- Ambiguous losses create feelings of confusion, helplessness and immobilization. (Lee & Whiting 2007)
- Children maintain significant psychological ties to birth families even after adoption, and grieve those losses. (Johnson 1996; Beyer & Mlyniec 1986)



Dissonance – (Roelock & Perez, 2018)

- 60% of kids interviewed reported permanency outcomes incongruent with administrative data.
- Eight participants reported achieving permanency through a subsidized guardianship whereas their records indicate they had aged out of foster care without permanency.
- Three participants reported they had been adopted even though records indicated they had left foster care through subsidized guardianships.



Relational Permanency

Relational permanence is defined as youth having lifelong connections to caring adults, including at least one adult who will provide a permanent, parent-like connection for that youth. (Louisell, 2008)



What youth say?

- “When asked to choose between relational, physical or legal permanency, **foster youth largely agree that relational permanency is the most important type of permanence that one can achieve.** Youth trust their ability to sense when a relationship offers a true emotional connection, and for many youth the sense of emotional stability is far more important than legal recognition of a relationship.” (Sanchez 2004)

Cushing, Samuels, Kerman (2014)

- Young adults who reported connections with **both** birth parents and parental figures showed relatively high levels of competence and low vulnerability in young adulthood.
- Group with **best outcomes** had relationships with **both** birth parents and parental figures.
- “Even when youth no longer live with their biological parents, some birth parents can serve as unique sources of care and support around relational permanence.”

My View

A system that demands legal permanency at the expense of relational permanency – that creates new, legally permanent relationships only on the condition that the children's existing bonds to those individuals who have been most important to them are terminated completely – does not serve their actual needs.



Another way?

- What relationships matter to children?
- How can we use the law to protect those relationships?
- How can we encourage relationships between those who children love?



IM 20-09

- “Emphasizing a child’s attachments and connections while ensuring safety, rather than solely prioritizing timeframes . . . will serve to strengthen and preserve families.”
- “Children in foster care should not have to choose between families. We should offer them the opportunity to expand family relationships, not sever or replace them.”
- “Children do not need to have previous attachments severed in order to form new ones.”



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Ideas for Practice

- Prevent removals unless absolutely necessary
- Exhaustive search for kin when removals must happen
- Encourage resource families to support birth families
- Encourage birth families to be actively engaged in the child's life beyond just visiting
- Mandate that reasonable efforts address social determinants of health
- Always re-evaluate whether a child must be in foster care
- Prioritize permanency options that allow relationships to continue



Project Compassion



Which
includes
self
compassion



Inner Skills

Gain Perspective

Embrace Competing Tensions

Support Efficacy