

Babies Cry for Judicial Leadership: Reasonable Efforts for Infants and Toddlers in Foster Care



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Summary

The science of early childhood development informs us that business as usual is unacceptable and harmful to infants and toddlers. By working with all the stakeholders involved in the juvenile and family court system, judges can improve the lives of these most vulnerable children.

Infants and toddlers in foster care look to juvenile and family court judges to make sure their special needs are met through appropriate reasonable efforts services for themselves and their parents. Do you hear their cries for help at your bench?

The science of early childhood development informs us that a child's first three years of life are *the* most formative for cognitive and emotional development. This is the unparalleled time an infant or toddler brain "hard wires" for speech, self-esteem, motor skills and social relationships. Babies must have at least one parent or caregiver who provides consistent love and care.

Sadly, one-of-five foster care placements is an infant. Once in foster care, infants remain twice as long as older children. Babies under the age of one make up 25% of children in the child welfare system; 76% of child abuse fatalities occur to children under four years old (Dicker, S., Gordon, E., Kmitzer, J. [2001] *Improving the Odds for the Healthy Development of Young Children in Foster Care*. New York: National Center for Children in Poverty). Babies experience foster care drift—multiple foster care placements, sometimes eight or ten in a single year. They have many foster parents who provide safe homes and food. But, they do not experience the emotional attachment that only comes from one foster placement with a caregiver who is trained and willing to shower love and affection on the baby. Without that single, stable, emotionally and intellectually nurturing relationship, infants and toddlers suffer brain damage and developmental delays.

So, what reasonable efforts services can help these infants and toddlers? Can a judge do anything to improve the lives of these most vulnerable children?

First, judges must train themselves and others about infant and toddler well-being. Invite early childhood intervention specialists to meet with you about training and best practices. Plan a systems-wide cross training. Have the court and stakeholders assess the system and what can be done to implement improvements. A new DVD *Helping Babies from the Bench: Using the Science of Early Childhood Development in Court* (zerotothree.org/courteams) is an informative call to action.

Second, convene a meeting with Health and Human Services, prosecution, parents' defense attorneys, guardians ad litem, CASA volunteers, your foster care review board and other stakeholders to develop a training for appropriate parenting time ("visitation") for parents with their infants and toddlers. Many courts have had such collaborative meetings and developed a parenting time policies, protocols and standards. (See articles in *The Judges' Page* newsletter, June 2006. nationalcasa.org/download/Judges_Page/0606_family_visitation_issue_0036.pdf)

Standard supervised biweekly, one-or-two hour visitation is inadequate, inappropriate and unacceptable. Reasonable efforts in this context means meaningful daily or near daily parenting time to build the infant/parent relationship and achieve permanency. A judge can rule earlier on whether a parent is making progress toward becoming a proper parent when the parent is given a fair opportunity to learn skills and apply them. If Health and Human Services is unwilling to provide such services, the judge could rule that a negative reasonable efforts finding will be issued in 30 days. If so ruled, Health and Human Services will not receive its foster care matching dollars under Federal Title IV-E Foster Care and Adoption Assistance Program. But, Health and Human Services must still provide the services as ordered.

Third, order a developmental evaluation under the Early Intervention Program for children under the age of three years, also known as Part C of the IDEA (Individual Disability Education Act) [20 U.S.C. Section 1431 (2000)]. After assessment, a trained clinician in infant mental health can address any developmental delays as well as train the parent to learn a baby's developmental signals and how to respond. Our court, its infants and toddlers and their parents are fortunate to have clinicians trained by Joy Osofsky, Ph.D. (Louisiana State University Health Sciences Center, 1542 Tulane Avenue, Room 315F, New Orleans, LA 70112) who can now provide therapeutic assessments and dyadic interventions and parenting time for babies and their parents.

Fourth, consider starting an infant and toddler family drug treatment court. Ours started May 5, 2005 (now a zero-to-five family drug treatment court). Parents will have an excellent opportunity to improve their ability to parent an infant or toddler while in recovery through holistic intensive services and court oversight. Our reunification rate is 80% within 12 months. Stability of care and permanency for infants and toddlers in a supportive, affirmative and accountable environment has helped these parents succeed. Timely mental health and substance abuse evaluations and treatment, Part C evaluations, parenting assessments and daily parenting time are essential. The heart of our treatment court is building the relationship between infant and parent. (See also: "Zero-to-Three Family Drug Treatment Court," *The Judges' Page* newsletter, October 2005 nationalcasa.org/download/Judges_Page/0510_child_development_and_parenting_issue_0036.pdf)

A judge working with all the stakeholders involved in the juvenile and family court system can change practices in order to meet the special needs of babies. Cycles of substance abuse, mental health issues, domestic violence and other issues of abuse and neglect can be broken. Permanency and infant well-being are achieved by preventing foster care drift, providing a single foster/adoptive placement as the first placement and providing early parenting skills assessment and appropriate parenting time to build and clarify the parent-child relationship.

The science of early childhood development informs us that business as usual is unacceptable and harmful to infants and toddlers. Judges, you can prevent this through your leadership in convening stakeholders, training, findings and rulings on reasonable efforts. Treat infants and toddlers like your own. Demand no less of yourself and others than you would for your own child.

Editor's Note: Judge Douglas Johnson writes of his experiences in achieving reasonable efforts in cases involving our youngest and most vulnerable children, the zero-to-three population. Judge Johnson completed the 2005-2007 Class of Zero-to-Three's "Leaders for the 21st Century Fellowship" program and is nationally recognized as a judicial leader and lecturer who has shown commitment to this population.

Additional Resources:

ABA Center on Children and the Law Practice & Policy Brief, *Healing the Youngest Children: Model Court—Community Partnerships*, March 2007. In this issue, our zero-to-five family drug treatment court is one of the courts featured.

ABA Center on Children and the Law Practice & Policy Brief, *Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know* (nationalcasa.org/download/Judges_Page/0710_visitation_with_infants_and_toddlers_0119.pdf), July 2007. Can also be viewed at the ABA website. (abanet.org/child/baby-health.shtml)

The National Council of Juvenile and Family Court Judges, *Juvenile and Family Court Journal* (www.ncjfcj.org/images/stories/dept/ppcd/pdf/JOURNALSpring2004/infantstoddlersincourtjournal.pdf) Spring 2004, Volume 55 No. 2. This is a special issue regarding infants and toddlers in court provides numerous in-depth articles regarding this topic.

Shonkoff, J., & Phillips, D. (eds.) (2000) *From Neurons to Neighborhoods: The Science of Early Childhood Development*. Washington, DC: National Academy Press.

The Urban Institute *Vulnerable Infants and Toddlers in Four Service Systems* (urban.org/publications/411554.html) September 2007. This brief compiles the best available data on the characteristics of vulnerable young children in four service systems: Early Head Start, the Special Supplemental Nutrition Program for Women, Infants, and Children, the child welfare system and Part C Early Intervention Programs.

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