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Panel Discussion 4: Best Practices in Representing Children in Court

Timothy Irwin

Carlton Lewis

Dwight Stokes

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JOHN EVANS: Thank you guys for coming for our last panel. To introduce our last panel today is the incoming Editor-in-Chief for *Tennessee Journal of Law and Policy*, the wonderful and talented Carrie Pond.

CARRIE POND: Hello. I'm Carrie Pond and I'll be taking the helm of this wonderful Journal next year, so hopefully any symposium that we put on next year will be as successful as this one was. I'll be brief since this is the last panel. Our last panel is called "Best Practices in Representing Children in Court." In this panel, members of the judiciary will be offering insights into effective practices for representing children in court, so they're going to give you the inside scoop on how to handle some of these ethical problems that child advocates face. On my far right, we have Timothy Irwin, a judge for the Knox County Juvenile Court. In the middle is Carlton Lewis, who is a magistrate judge for Davidson County Juvenile Court. Finally, we have Dwight Stokes, who is a judge for the Sevier County General Sessions and Juvenile Courts.

PANEL DISCUSSION 4: BEST PRACTICES IN REPRESENTING CHILDREN IN COURT

The Honorable Timothy Irwin
The Honorable Carlton Lewis
The Honorable Dwight Stokes

MAGISTRATE JUDGE CARLTON LEWIS: I am really, really thrilled to be here for two reasons. Number one, I think this topic of the politics of protecting children is a wonderful, wonderful topic. Secondly, I grew up here in the city of Knoxville. This is my home, will always be my home. I graduated from Holston High School. Our football team lost consecutively to Central High School where

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Judge Irwin was all-city in high school. Any chance I get to come home is a wonderful opportunity to me.

Let me thank from the previous panel Ms. Mary Walker, who was Referee Walker when I started practicing in juvenile court, and later went on to become General Counsel for the Department of Children's Services, at least for the Davidson County region. I think Ms. Walker had some fantastic hires as attorneys for the Department of Children's Services. Also thanks to Representative Sherry Jones. You can never go into a committee hearing dealing with children, youth, and families and not see Representative Jones stick her head in at some point, whether she's got a bill before that committee or not. I can truly say that she is interested in children and families.

We've got ninety-five counties in the state of Tennessee, all of which have a juvenile judge who hears juvenile law cases either on a full-time basis or has some other jurisdiction in addition to his or her juvenile court jurisdiction. With those ninety-five counties and those judges, you've got at least that many different personalities. In order to be an effective attorney representing your child client or representing your parent client, I strongly urge you, especially in Davidson County, to find out what your judge's hot buttons are and avoid those hot buttons if at all possible. Find out what your judge's prejudices and passions are, because we all have them. We try to hide them the best we can, but we have them. The more you know about our personalities, our likes, and our dislikes, the more effective you are going to be in representing your client. I had an attorney ask me several years ago, "What does it take in your court for a parent who has been found to have severely abused his or her child to get their child back?" And I looked her in the eye and I said, "Quite frankly, I don't think they can ever do enough." That's my prejudice, people who harm young children and elderly people. Had she wanted to use my statement to have me recuse myself, I would have recused myself. What I wanted

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her to know, and what I want all attorneys to know, is when they come into not only my court but to any courtroom, they should always be able to expect consistency. Some of us are going to be consistently one way or the other. As long as you can tell your client that that judge is always consistent when it comes to that issue, then you've done your client a favor.

We've got difficult budgetary times in Tennessee right now, and the vast majority of attorneys in Davidson County who practice in the juvenile court are appointed and are reimbursed for their services through the Administrative Offices of the Court. You all probably heard some discussion about reimbursement this morning. There is an ethical dilemma that you as an attorney need to be aware of and hopefully you will avoid at all times. You're appointed by the court, you're reimbursed by the Administrative Office of the Court, and you are reimbursed at a particular rate for out-of-court and in-court time. The more activity you have on your case, the more money you're going to be reimbursed for your services. You have another interest that should be at least as important as your financial interest, probably superior to your own financial interest, and that is the interest of your client. I'm familiar with a situation where a mother was alleged to have severely abused her children for a second time. For some reason, notwithstanding the admissions that the mother had made, she went to trial on that case. The court found that the children were severely abused, and the court had to remove those children after that finding. The problem with that came to be the Department of Children's Services had made an offer to the attorney representing the mother to settle that case, and the settlement offer involved a finding, but not a recommendation, for removal of the children. The attorney tried that case rather than settle the case, and maybe that was a decision that his client made, but I also know that the attorney appealed that case, and appeals in juvenile court are *de novo*, so he had a second trial that he

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billed to the Administrative Office of the Court. The judge hearing the appeal affirmed the ruling of the magistrate. So there is still a severe abuse finding and the mother has not, and likely will not, regain custody of her children. I'm concerned that because of difficult economic times the attorney very well might have made a decision to try this case, appeal this case, do post-dispositional work, and pad his claim for fees to the Administrative Office of the Court while disregarding the legal interest and the best interest of his client, which was to resolve the case to retain custody of her children. Be very, very careful ethically in making decisions in the representation of your clients. Lawyers still should not take on representation in matters with which they are not familiar or confident. Juvenile court has become a very specialized court. I frequently tell folks that juvenile court judges can do something that Supreme Court judges cannot do – that's terminate the rights of parents. United States Supreme Court judges don't have that authority. So what we do in juvenile court is very, very important; it is becoming very, very specialized. I'd love to have as many attorneys get experience in juvenile court as would like, but it is very important to become very familiar with the Rules of Juvenile Procedure. Ten years ago, you probably would never find an appellate opinion addressing a matter from juvenile court. Now we have a large body of law from the Court of Appeals, particularly in the area of dependency and neglect, as well as termination of parental rights. So there's a lot to work on and be familiar with.

The last thing that I would like to caution you on is there is a phenomenon in some counties – and it happens; we may as well fess up to it – quite often, judges have a lot of influence and a lot of authority because a lot of attorneys depend heavily on receiving appointments in juvenile court, in general sessions court, or wherever. I think, as a result of that, sometimes an attorney's client may have a particular interest and the attorney may not always be willing to shake the walls as they need to because they don't want to run

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afoul of their judge. They depend heavily on their judge for appointments. I don't know the answer to that situation for you, particularly as young lawyers who might come in to the juvenile court system. I understand that it is easy to become friendly with other attorneys, particularly when you work with the same small group of attorneys on a regular basis, but try to the extent you can not to allow your friendship or your personal relationship to cloud your personal professional judgment as it relates to your clients. When you are able to do that, I think you become a very effective advocate on behalf of your client.

JUDGE DWIGHT STOKES: It's good to be here today. I'm excited, like Carlton is. Carlton and I work together on the Tennessee Commission of Children and Youth. We also have a great experience there. They won't let us sit together there because we cut up too much. We get in trouble just like school kids. I wanted to just speak to you a little bit today. I have an outline but the outline is too much for me to cover. It does include some excellent resources because they're not original from me. I don't have many original thoughts, but I am a good collector of certain resources. I wanted to talk about seeking justice for one child at a time. The emphasis I wanted to make is that every one of us who is interested in children and young people need to fully understand what the juvenile justice system is about. We don't have any choice but to be all in. We need to be a hundred percent committed if we choose to serve in the juvenile justice field. We must be fully aware of the fact that we must fight to find resources, we must fight to educate judges, and I really do challenge you to do that.

As Carlton mentioned, every juvenile court is different across the state. That has many, many challenges. But you need to fight to educate judges about the real issues and point them to it. You need to educate caseworkers, probation officers, and service providers as to the specific needs of a case. The specific needs and the

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specific strengths of a child and family should be emphasized. Lawyers and other advocates must know that if justice and fairness are to be achieved, it must come through hard work and an understanding of the juvenile court system. You must not assume that anybody is going to do her job. You must not assume that there's a caseworker that's going to do her job; that a probation officer, even the judge, maybe especially the judge, is going to do her job. You must press to see that they actually do it. You must be ready to fight hard with the powers that be, whether it's an ornery judge like Judge Irwin or me, you must be ready to stand up. I know you've heard that several times.

Let me just hit a few highlights of what I have on the outline. If you have that, you can just follow along with me. Achieving justice is achieving what is just in conformity with the truth and the facts, regardless of any race, gender, socioeconomic status, or other potential bias. It means doing right by each child and by the specific circumstances. First off, I think all child advocates need to know that the juvenile court is engaged in the work of child-saving. We're here to save children. I've got a little article there that talks about how, back in 1891, it was originally started with the concept of we are to be child-savers, that all children should be treated as children.¹ I met Judge Andrew Becroft out of New Zealand at a conference and we became good friends, and he wrote an article² that I have quoted in there, but he has a few very interesting points that we really need to understand as we work in the juvenile field. First, childhood is typified by risk-taking and

¹ Ann Reyes Robbins, *Troubled Children and Children in Trouble: Redefining the Role of the Juvenile Court in the Lives of Children*, 59 JUV. & FAM. CT. J. 3 (Winter 2008).

² Judge Andrew Becroft, *Children and Young People in Conflict with the Law: Asking the Hard Questions*, 57 JUV. & FAM. CT. J. 1 (September 2006).

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impulsive behavior.³ That's going to happen. It's the norm. Second, children do not have the same developmental level of cognitive or psychological maturity as adults, and therefore they are more vulnerable to provocation, duress, or threatening behavior, and they're more impressed by peer approval and a fear of rejection.⁴ Third, offending by young people is often symptomatic of care and protection issues, as you've heard, to which a purely judicial response is destructive and unjust.⁵ Attempting to unravel and deal with justice and welfare issues within a traditional adversarial court system is very difficult. He talks about all of us being willing to ask the hard questions; attorneys being willing to ask the hard questions, and judges being willing to ask the hard questions. But one of the best quotes is the last one I have quoted there: he says the majority of young people will grow out of offending if they are kept away from the criminal justice system, are made accountable for their crimes, and are given the right support.⁶ I think that's really important. You need to keep young people out of the juvenile justice system. How do you do that? You have informal adjustment. You have ways of approaching people and caseworkers, and you find out within your own system. You need to educate the judges and the powers that be. We need to have people out of the criminal justice system. The longer they're in it, the more likely they're going to fail. The more we can get them connected to services and to bring out the strengths of their families, give them help within their families and put people out in the field, the more likely we're going to make an impact.

The second major point is that it's crucial for all juvenile court professionals to understand the basic

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

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provisions and purposes of the juvenile justice system. You can start off with T.C.A. section 37-1-101,⁷ which gives you a lot of ammunition with anybody. It says that, first off, the purpose is to provide for the care, protection and wholesome moral, mental and physical development of children coming within its provisions.⁸ Secondly, it's consistent with the protection of the public interest to remove from children committing delinquent acts the taint of criminality.⁹ The judge starts off with that as the objective: that we're trying to not criminalize these children and we're not trying to make them think of themselves as criminals; we want to give them an opportunity to turn from their ways and help shape their lives, and we do that in a family environment. It says in point three: removing a child from the child's parents "only when necessary for the child's welfare or in the interest of public safety,"¹⁰ whether it's on the delinquency side or the dependency and neglect side. "Provide a simple judicial procedure."¹¹ We should protect all the rights of *In re Gault*;¹² the procedure should protect all their constitutional rights.¹³ But also we should keep it simple, and have cooperative measures interstate.¹⁴ All judges know that's a joke. When we do things interstate, it's a very difficult process and time-consuming.

We need to deinstitutionalize children.¹⁵ I have a practice point there I just want you to note with me. Attorneys and juvenile court professionals must use their skills in case preparation, including knowledge of their clients and families, to help craft and shape remedies to

⁷TENN. CODE ANN. § 37-1-101 (2011).

⁸TENN. CODE ANN. § 37-1-101(a)(1).

⁹TENN. CODE ANN. § 37-1-101(a)(2).

¹⁰TENN. CODE ANN. § 37-1-101(a)(3).

¹¹TENN. CODE ANN. § 37-1-101(a)(4).

¹²*In re Gault*, 387 U.S. 1 (1967).

¹³See TENN. CODE ANN. § 37-1-101(a)(4).

¹⁴TENN. CODE ANN. § 37-1-101(a)(5).

¹⁵TENN. CODE ANN. § 37-1-101(a)(6).

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address the problems of young people. I love attorneys who come into the court and have interviewed people, know about their clients, and can even file something with me and just say, "Your Honor, what we have in mind is the parents have already addressed it this way, we're already doing this, we've already got the children in this kind of activity, we're trying to do this," and how the attorney may have helped the parents or somebody already gear up toward a certain thing. That may not be able to happen always, but there are those times where you can get appointed and try to get in enough time into it to where you're crafting a remedy and helping to shape it, that I can see an engaged attorney, that I can see an engaged family already trying to deal with it, and that can be extremely impressive.

I talk a little bit about the role of a guardian ad litem. Here is the simple rule I have: don't be a guardian ad litem if you are not willing to do what it takes. Don't get into it, because it takes really being involved. I had two guardians ad litem recently that came in and filed a motion because they did not feel that DCS was doing their job in those particular cases. Now, we have a good DCS attorney in our county who is very active and does a good job, but it's good to have dissenting opinions. On one of the cases, I found in favor of what the guardian ad litem was seeking, and in the other, I did not. Both of them did a very good job and both of them accomplished their purposes by getting something filed in there for me to listen to. But that's very important, just taking the initiative. I have a little bit in there about *In re Gault*¹⁶ and the duties of attorneys. There was a former law student here, Marcos Garza, who wrote an article in the Knoxville Bar Association,¹⁷ and it really impressed me just to hear what he said. He talked about

¹⁶ *In re Gault*, 387 U.S. 1.

¹⁷ Marcos M. Garza, *What It Means to be a Lawyer*, 35 DICTA 8 (June 2008).

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how he worked out a deal on behalf of his client that he thought was a really good deal. The problem is he didn't really stop to think on that particular occasion about what impact that good deal would have on his client. Then he went back and talked to a professor here at the law school, and she emphasized that you really need to tailor your remedies toward the families, toward the individual people. It made a big impression on him, and he realized that this is not my case as a lawyer, it's my client's case, it's that family's case, and it's that child's case. In that particular case, it was an adult, but who was an a single parent who had to work, and for her to be able to do something as simple as attending classes at night was going to be an impossibility with her family. Even though it would have been a good result in many cases, it was not a good result. Whether you're dealing with an attorney general or the DCS, just because they come up with something doesn't mean it's the right deal. I know you know that, but it's trying to say I know this may be a good thing in most cases, but it's not good in this case because of the transportation problem my client has. So craft your own remedies and impress the judges with how engaged you are in a case, and that can go a long way.

I've got an article¹⁸ there about duties of attorneys representing youth in delinquency cases. It applies both ways: delinquency, dependent, and neglect. You must zealously represent your client in these points. Have a particular interest in youth and family systems if you're going to do this. Investigate the client's case, and be informed of special needs. We have people like Dean Rivkin that are here in the law school that have spent their lives and spent a lot of their time, and a lot of others, like Ms. Barbara Dyer, that work on special needs. What are the special needs? What are the interests of this family? What

¹⁸ NAT'L COUNCIL OF JUV. & FAM. CT. JUDGES, JUVENILE DELINQUENCY CASES 30-31 (Spring 2005).

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do you need to do to try to make this family whole and give them the resources necessary? File pretrial motions. If you've got a judge that has a lot of issues, getting a judge's attention early can go a long way. It can be very impressive, particularly if it's individualized to that particular case.

Thirdly, all juvenile justice professionals, beginning with the judge, must see that procedural fairness actually occurs. Now, let me emphasize this. What these studies¹⁹ show is the more engaged the client is, the more that they feel that the system is transparent, the more they understand what's going on with the judge and the probation officer, then the more likely they're going to comply with orders. If they comply with orders, they're going to be more successful: if they understand them, if they know the decision-making process, even if they don't like the idea. That's a big deal. Judges can be more clear, more precise in their orders. We can try to make it clear and try to make it transparent. It takes more time. I try to do that in every case, juvenile or general sessions. I want them to know why I'm making a decision – it helps them if they want to appeal something – but I want them to know what's gone into it. I want the juveniles and the parents and others that come before the court to think that we are a benevolent court system that wants to see good things for the young people and for the families. Yes, there can be punishment involved, but I think it's important for a parent to know they will have an ally if they're doing the right things, and maybe not so much if they're guilty of abuse or neglect, but even those can see that there are resources that we're trying to set up, if we do it right. The material talks about giving them an opportunity to voice things. I see a lot of public defenders, and a lot of counsel from time to time, say, “No,

¹⁹ See Kevin Burke & Steven Leben, *A White Paper of the American Judges Association: The Voice of the Judiciary: Procedural Fairness: A Key Ingredient in Public Satisfaction*, 44 CT. REV. 4 (2007).

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don't say anything, don't say anything.” That is important sometimes, but, every now and then, there is a time that's very important for them to be able to voice it out and for us, as judges, to be patient and willing to listen to what's going on, feel and hear what they are feeling, and not be too judgmental about it. Because it's very hard for a court system to come into your home. It's very hard to have people intervene in your lives. I can guarantee you, as a parent, I would not have liked it. I would have wanted to have it out as soon as possible.

We need to make sure that we have unbiased decision-making, make sure we respect people that come in front of the court, and that attorneys respect their clients and their need to say some things, and to have trustworthy authorities. But it's very important to show procedural fairness. When they think that things are fair, when they perceive that things are fair because they're getting an opportunity to speak, they have a representative who is appointed, you have a guardian ad litem in place, you have the attorneys in place to represent, they get a better feel that there is a fair system in place, that really helps them to be able to comply with the decisions that are handed down. Perceptions of procedural fairness differ dramatically among minority and majority populations. Court systems need to reach out. I serve on the Statewide Disproportionate Minority Contact Task Force, and there are a lot of things that happen in minority populations that are just not fair. There are a lot of things that we need to reach out for with populations to show them that we care. Most young people who are black that step in front of a court system are looking into the face of a white judge in Tennessee and most other places. So we need to show them that we are concerned enough, that we want to be prepared enough, that we want to have people out in the field so that they don't have to ask the question “What can that judge possibly know about me? He can't possibly know much about my neighborhood, or where I am, or what I've done

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with my life.” No matter what race they are, people need to feel like we're interested, that we want to get the real facts, are willing to listen to them, and give them an opportunity in the juvenile court system. I realize we have all types of crimes that come up, and some may be particularly violent, but we still have a duty to treat people with fairness and make decisions that are right and based upon the facts.

I have some material there for you to consider about foster care, in making sure you let people that are in foster care have a voice and talk and speak up. The juvenile courts should be the great leveler in our communities. In other words, all participants in our judicial system, including judges, district attorneys, defense lawyers, guardians ad litem, probation officers, law enforcement officers, school representatives, everybody, should advance the cause of justice for all. One of my favorite quotes from *To Kill a Mockingbird*²⁰ talks about how the court system should be the great leveler, no matter what color, no matter what race, no matter what background, we should be fair and level the playing field. But that just isn't happening. It doesn't happen. That presumes that a presiding judge is really wanting to seek justice. It presumes that people have effective legal representation. It presumes that law enforcement officers are doing their job, and on down the line. Cornel West says in *Prisoners of Hope*, "We need a moral prophetic minority of all colors who muster the courage to question the powers that be. The courage to be impatient with evil and patient with people, and the courage to fight for social justice."²¹ We just need to question what's going on when you have a system that has so many flaws to it and ask, "What we can do to make it better?" I

²⁰ HARPER LEE, *TO KILL A MOCKINGBIRD* (Grand Central Publ'g, 1960).

²¹ CORNEL WEST, *Prisoners of Hope, in THE IMPOSSIBLE WILL TAKE A LITTLE WHILE: A CITIZEN'S GUIDE TO HOPE IN A TIME OF FEAR* 296 (Paul Rogat Loeb ed., 2004).

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really think that the people in this group are the best place for that to start: people who are interested in kids and representing young people. What can you do to make a difference? I have a lot of material in here about disproportionate minority contact, how a judge is supposed to be over everybody and make sure they're doing their job, and that each party, including people who are representing people of color or people who are representing through the guardian ad litem, that you are trying to make sure that there is fair treatment and you're standing up for the issues.

I have some matters in here about the school system, about certain policies we need to deal with. I talk about a book written by Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Color Blindness*.²² It's a great book primarily about adult incarceration of minorities, but it also talks about how someday we're going to have to look back on a system that totally failed millions of people and wonder how we could have possibly let it happen. Alexander concluded, "As a society, our decision to heap shame and contempt upon those who struggle and fail in a system designed to keep them locked up and locked out says far more about ourselves than it does about them."²³ One day our society, in particular juvenile justice professionals, will be forced to look back on our current system, which has failed to address DMC²⁴ issues for many years and many other issues we could throw out today, and marvel at the thought that such a system of juvenile justice is allowed to go on for such a long time. We all have to look back on a system that incarcerated so many young people who could have been treated more humanely and wisely. We will see so many kids and young people utterly betrayed by a disgraceful system. We will have to wonder

²²MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (New Press 2010).

²³*Id.* at 170-71.

²⁴ Disproportionate Minority Contact.

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how we missed so many obvious signs that young people of color and young people of poverty were being mistreated in the juvenile justice system and given no chance to succeed. And we're going to have to look at ourselves in the mirror someday.

Finally, I have a few materials about the special education needs. An advocate must be educated about special education needs and understand all that there is to know about what needs to be done when a case comes up where there's a special education child. When you should bounce that out of the juvenile justice system and what steps need to be taken. You can read about those and/or talk to some of the panel over here.

And I'll also talk about one other thing at the point where I finally wind down – and I have one minute of time – juvenile justice professionals, including judges, should commit ourselves to seek justice for each child and try to implement and individualize the juvenile justice plan. Dean Rivkin was telling me about a resource he had read that had about the same things that are in my materials, but we have an IEP²⁵ in special education, and what I want to do in my system is try to get as close as we can to having an individualized juvenile justice plan for each child. And it takes everybody working together. It takes attorneys being attorneys and advocates. It takes probation doing what they need to do. It takes youth resource officers doing what they need to do, and all of us coming together to try to address the issue. And you can read some of the quotes there. But it's a fascinating idea that's in these materials that Claudia Wright had written in an article I just recently read.²⁶ She concluded, "The choice is whether we can afford to try

²⁵ Individualized Education Program.

²⁶ Claudia Wright, *Rethinking Juvenile Justice: Using the IEP Concept to Create a New Juvenile Justice Paradigm*, THE LINK: CONNECTING JUVENILE JUSTICE AND CHILD WELFARE (Child Welfare League of Am.), Fall 2007, at 1.

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something that has a real chance of working. How much is it worth to improve the quality of life in a society, to eliminate inhumane treatment of children, and to create productive citizens?"²⁷ She said it is worth everything for us all to try to come together.²⁸ You know, the judge has to be a judge. The judge has to enforce due process and has to be willing to listen to cases, hear the burden of proof, and make a decision. I'm not talking about advocating that, but I am talking about a judge having a role of having to supervise and make sure people are doing their jobs and trying to create an environment that's fair for everybody.

And my last thought is, on the last page, I went to a conference in Washington, D.C., The Cradle to Prison Pipeline, and Judge Judith Kay was speaking there and she told us that we should internalize this notion as we have a case: Are the efforts that I make – the judge, the probation officer, the attorney –are the efforts that I make good enough for my child? If this was my child that I was representing, if it was somebody representing my child, are the efforts that I'm making good enough for my child? And if it's not good enough for your own child, it's not good enough for anybody's child.

JUDGE TIMOTHY IRWIN: How much of my time did he take? Can everyone hear me? I'm a little tall for that podium. Can you hear me okay in the back? In my misspent years as an adjunct professor over here, I never had any complaints. My students were consistently smarter than I was, and it was very difficult to teach under those circumstances.

I took a little different approach to today's topic. And I have relatively little experience compared to the two gentlemen who are up here with me. I've been a judge for five years. But I think it's important that you understand

²⁷ *Id.* at 6.

²⁸ *Id.*

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what I think will help you in Knox County Juvenile Court. I know we have a lot of practitioners here. If you've practiced in Knox County Juvenile Court before as appointed counsel, as free counsel, as a University student, hold your hand up just so I can see how many. Yeah, most everyone. Okay. I want to tell you initially that my goal for our children – I think it's important you know that, and I've tried to cut through all the BS and I've tried to break it down – and it's not possible for every kid, but I want our children when they're eighteen years old in Knox County to have a diploma. I want it to be a high school diploma. It takes twenty-eight credits to get one. Sometimes that can't be accomplished for a variety of reasons. But I think you're facing an uphill challenge in this world if you try to raise a family and support yourself without one. In this county, you need to have a driver's license. Knoxville and Knox County were not designed for mass transit to be effective. If you want to work, you have to be able to get there. One of the main problems we seem to have in Knox County Juvenile Court is that we have a lot more resources than some of our neighbors but we can't get our people to the resources. It comes up over and over again. “It's not on the bus lines, Judge.” “I can't drive.” “My mother lost her driver's license.” “Our car won't work.” You can very easily find yourself being a shuttle service as an appointed counsel in Knox County. I'm sure some of the people in the education practicum that are working in my court know exactly what I mean. It's a problem. So I want my kids to try to have a driver's license. The third thing, perhaps the most important, and I always try to ask them when I get the time: “Tell me about your life plan.”

I have a great job. I get paid to wake up in the morning and go into work and try to figure out how to make a child's life better. Yeah, we have to protect society sometimes from children, and Dirk Weddington gets to do most of that, but I get to try to figure out how to make a child's life better. And I can tell you in five years I believe

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in my heart I have made more mistakes of omission than commission. I've waited too long. I've been too patient. I've tried and tried for Mom and Dad. I've tried to hold things together with Band-aids. I think I would have been better off a lot of times striking like a cobra, just right now, you're gone, it's over. I hate to admit, I'm part of a bench that enabled services to go on in a family for ten years, where five kids – not all five at once, but over ten years, five kids – eventually all had to come into custody. Since they've been in custody, they're doing great. I let that go on too long. Maybe I didn't have the wisdom. Maybe I didn't have the opportunity. Maybe I didn't believe the law. But sometimes I feel like I'm too slow to strike. The reason I'm telling you this, I think it's important you know what makes me tick, what makes my magistrates tick.

We have 31,000 matters coming through this county's court; 31,000, from child support, to traffic tickets, to termination of parental rights, to transfer hearings for murder. We have a plethora of sexual stuff right now. I don't know what's going on in the world. I don't know if people are just finally telling the stories and they've always been there, or we got more of it. You know what the pills and the pill mills are doing to our court. Dependence and neglect was up nine percent last year in Knox County. Your fees aren't going up. One of the things I want to remind you, when you appear in our courts and you have private counsel in there with you, you jump up and you stomp your feet and you ask me to set aside money for you now. I will always do that. I want you to get paid. I don't want to lose a single one of you. You're my heroes. Being a judge in a county of this size, it's not a monarchy; it is just a member of a team. I have to rely on five lawyers from the Department of Children's Services. I have to rely on people willing to come down and work for forty to fifty dollars an hour because they love children and love the work. Maybe some of them can't get anything else, but I don't believe that to be the case. They are passionate about what they do.

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I have partners like Helen Ross McNabb who provide mental health care to indigent people. I have Boys and Girls Clubs who pick the kids up from school and try to fill that void. I'm part of an elaborate team, and a lot of that team is in my building. I think it's important that you all know who's in the building with you, where you can go get a mental health evaluation. What does Assist do? Assist is that group of interns from the good ole University of Tennessee headed by Marie Bly that can get you quick mental health assessments, that can steer you in the right direction, can tell you how to get stuff paid for. We are practicing in a world of shrinking resources. We don't have enough to go around. You've got to fight and scrap for your client to make sure they get their part. You may need expertise from Marie Bly, or someone like her, to tell you how to get TennCare to pay for something. Twice, since I've been a judge, I have issued subpoenas for gatekeepers from insurance companies to come to my court and tell me why, as a retired radiologist gatekeeper, they disagree with two mental health professionals that say a child needs inpatient, residential care. They caved on the courthouse steps both times and never appeared in my court, but they paid for the child's treatment. Don't be afraid to do that. I've got your back if you want to do that.

Judges hate surprises. We hate surprises. I, at seven a.m. in the morning, when I walk in, want to try to figure out how my day is going. I really want to know what I'm going to have in front of me that day, and I do my best to figure it out. I want you to take care of the surprises early. I want you to get all that worked out beforehand. I don't think we exercise motion practice enough in Knox County. I don't think we – and I think partly because our department is pretty receptive, if you ask them for something, they'll generally give it to you – but I don't think we exercise our motion practice enough on the delinquent side, or on the civil side. I'd like to see more of that. I would like to see you have the ability to have pretrial conferences before it's

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time to go, which would mean a lot of times three attorneys all had to show up there before the whistle. I think it's a good idea to be early in my court. If I see you poke your head in there on a busy day and sit down in the back and wait until I see you and kind of nod, your case is going to be called shortly thereafter. If you want in and out of my court, let me know you're there. Let me know you're there. Again, 31,000 matters, no sense in you being last.

Understand the frustration of your clients. Understand what it's like to get a letter in the mail that says you're a father. "Oh, yeah, that was ole what's her name. Oh, no, I'm not." "Okay, well, sir, then you need to go down to these lawyers' offices on Gay Street and get a paternity test." "Yeah, I'm going to do that." A few weeks later, the mail comes – congratulations, 99.9 percent likely to be this child's father, we can't rule you out. Then you get a court date for child support. You come down to child support, the judge says, "Mr. So and So, you make X and we've put these numbers in the income shares model and you're going to pay X." And you say, "If I've got to pay, I want to see my kid." That's how our cases start, now. You need to know this. "I want to see my kid if I've got to pay." "Oh, well, we don't do that at this location. Judge Irwin will not allow us because of our high volume to sign anything but agreements on visitation or custody of a child in this court. You need to go to Division Street." So I truck down, get on the bus, and ride that bus to Division Street. I get out, I walk in, and I meet one of my nice ladies in intake, who are very experienced workers – It's headed by Mary Lindsey – and I go into intake, and the intake worker says, "Can I help you?" I say, "Yes, ma'am, I want to see my kid. I'm the dad, I want to see the kid." "Well, fill out this form, sir, and petition for custody visitation. By the way, it will be \$136.00." "What do you mean? They saw me up there for free." "That's right, you were the respondent. It's \$136.00." "All right. So let me take the bus back and get this check cashed and I'll be back." So I do all that, and

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come back, fill all this out, and turn it in with \$136.00. This is a big deal, now, and they've gotten this done, and they're feeling pretty good. "Okay, sir, before the court will agree to hear your case, they require cases coming from child support to be mediated." Mediation is next door in that trailer. So you walk out and go over to the mobile building, and you see Jackie and have your case mediated, which takes a while. They're pretty quick. They send the case back to us, and if you don't have a resolution, then finally you get a court date. And, of course, in the meantime, if there are allegations of dependence and neglect, we go down a whole other road.

I understand, and I feel the parent's pain sometimes. I understand how difficult it is to even get in front of one of us. And I believe we're pretty much an open enrollment court. Any private citizen can come down there and file a petition about anytime they want. Again, it's getting there, it's paying for it, it's figuring out how, and doing all that without the advice of counsel. It's tough. I said it before, I don't want a bunch of surprises and ambush. We're dealing with children's lives here. I want to know all the factors so I can make a good decision. I want you to agree on as much as you can before the day of court. I want you to talk to Ralph Maylott, David Hull, Susan Kovac, Barbara Johnson, or Kathleen Parsons. I want you to talk to each other. I want you to see what the guardian's position is. I don't want you to be surprised. I don't want a guardian in my court that has to be introduced to their child at the time of trial. I'm not interested by that. If you're going to be a guardian, you've got to go. You have got to go if you're going to be a guardian. You've got to go to the child and family team meetings. You've got to go to the foster care review board. You've got to see your child at school. There are easier ways to see a child than others, but you've got to go. You've got to let me know you've gone. Let me know what you know. You are my eyes and ears. I would have liked to have heard Lucie Brackin's talk, because I feel like I know

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Lucie Brackin very well. I've never seen her, but I have talked to her for hours because we were both on the 40A Supreme Court panel looking at that law and trying to fix it so it will work. I would have very much liked to hear her speech. She knows a lot about the roles of a guardian, what a guardian needs. Know where the DA and the Public Defender's offices are. Know how to get back and see DCS. Know all nine probation counselors and all eight family service workers. Know their supervisors. Know the court directors. Know the thirteen security officers and two bailiffs and the PBS guys out front. Know my paralegal, Barbara Miller. Know my cell number. Know my direct office number. Know how to get a hold of the people you need to get a hold of to help the kids. Help the kids. That's what we're there for, that's what we wake up for every day. Nobody in this room is getting rich in this field. You wake up every day because you have a passion to help children. If you can make a living along the way, that's great.

I want to back up just a minute and I want to talk about Assist. They get a tremendous volume of cases. Remember, that's a great resource. It's free. It's six master's-level social workers, almost licensed clinical social workers, that work under Marie Bly, who has thirty years of experience. They can get you a mental health assessment quickly. They'll help parents. They'll help kids. They help families. Don't forget about that resource. It's underutilized.

Who knows what the expungement powers of the juvenile court are? I think I got the most power of any judge in the system. I can expunge a conviction. Find me another judge that can expunge a conviction. I won't even say what Dr. Bill Cherry used to say; that wouldn't work in this crowd. But find me a judge that can expunge a conviction. Your judge can. We can only expunge the records that we have on site. I can't order law enforcement to expunge their arrest records, but I can expunge juvenile court records. And I can tell you, in Knox County if you

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want to help your client and you got one you think you can get in the Army, Navy, Air Force, Marines, anything short of murder and rape, I'll make it go away if you show me that they're in. If they pass the ASVAB,²⁹ if they pass the physical, if they feel the call to serve their country, I will make things happen for them. I will seal it. I will expunge it. I'll extinguish it. I'll shred it myself. I'll burn it. Anything short of one of the old X crimes, it will go away. I promise you I can do that under the statute.³⁰ Read it. To my knowledge, no data from Knoxville Juvenile Court has ever been entered into a Cray computer anywhere, thanks to Judge Garrett. He refused to let information out of that building. I am doing my best to follow in his footsteps. It does not need to be entered in a database where it can come back and haunt these children for the rest of their lives. If it gets in that database, no one can get it out. That's why JASIS³¹ is a closed system. But I can wipe JASIS clean. The statute says I can.³² I don't do that enough because people don't ask me to do it enough. People don't ask me to do it enough. I would do it more. I would do it in every case I had when they turned nineteen. Even if I said no, I would ask me to think about it.

If you come up with an alternative, I will listen. If you can show me a way to save that child's life without placing that child in custody, I will listen. If you show me a treatment alternative, I will listen. Understand the Department of Children's Services. I believe this was when R.A. Chapman was running things over there, I asked for a flow chart because I wanted to understand who worked at DCS and just what they did. I got a flow chart back, and they were divided up into five clusters. That was the name of their work groups; they were clusters. And I thought that

²⁹ Armed Service Vocation Aptitude Battery test.

³⁰ TENN. CODE ANN. § 37-1-153(f) (2011).

³¹ Journal of the American Society of Information Science.

³² TENN. CODE ANN. § 37-1-153(f).

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was very apt. I love my Department of Children's Services. The reason for our court's existence is the deterioration of the family unit in our community. Three magistrates working full-time hearing child support cases of unmarried parents in this county – every day, all day, as many as they can hear. One magistrate working hearing the married folks and divorced folks cases, and our people all hear about twice what she hears – not that she is slack, I mean, she just doesn't have as many cases.

Don't set two cases at the same time. Keep your calendars accurate. Don't make me go down and beat up Kay Kaserman or Irene Joseph to get you in my court, because they're probably going to win anyway because they have probably forgotten more than I'll ever learn. Remember why you chose this field. Every day when you wake up, make a kid's life better. Some of them just need somebody in their life. I would say most of them just need somebody in their life. And if you don't feel you have the resources to help, ask somebody that works in the court. If they refuse to help you help your child, let me know about it, let me know about it. My mission as judge of the Knoxville Juvenile Court is to be standing out there, maybe with a cane, when they shut those doors and padlock them because there's no more need. That's what I'd like to see happen. I would not like to expand it. I would like it to shrink from disuse. Thank you all for being part of the team.

JOHN EVANS: Thank you to you guys. We'll do questions in just a minute. But that was very lively so I didn't know if you guys wanted to respond to each other – that's also fine.

JUDGE TIMOTHY IRWIN: We'll just take some questions from the floor.

JOHN EVANS: I'll start off then. I'm about to be an attorney graduating here in a couple of months. Do you

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guys have any pet peeves, maybe common mistakes, that new attorneys make in your courtrooms, given how some of us may be appearing in your courtrooms in just a matter of a few months from now?

MAGISTRATE JUDGE CARLTON LEWIS: I think Judge Irwin hit on one of the things that's probably a pet peeve for everyone. There's an anxiety about getting appointed and getting paid in a juvenile court case. There's a ton of activity that goes on between getting appointed and getting paid. And, as Judge Irwin alluded to, if you haven't done everything in between, you don't deserve to get paid. Because a child or a family comes into the court, there's the intake process, there's the adjudication, and there's the disposition. If there's a commitment, there's the child and family team meeting, the permanency staffings, and the permanency hearings. It takes a lot to get away and attend each of those staffings. But if I'm having heart surgery, I want my surgeon involved in every step of the process. And these clients have a right to have their attorney involved at every step of the process. So my pet peeve is for a family or a child to come in to court and, A, say they've never met their attorney, or, B, it's been six months since they last talked to their attorney and there have been fourteen or fifteen other meetings. So an attorney not fulfilling his or her responsibility is a pet peeve. And, like Judge Irwin said, we're not getting rich doing this. None of us have got into the juvenile court system to make a fortune.

JUDGE DWIGHT STOKES: I'll just add to be on time, or have permission not to be on time, because you have to be somewhere else that's urgent, at least in our court. And, also, let your client know what they need to do when they're in court. I see way too many attorneys that may not talk to their clients about how to behave in court. If my own children would have come into juvenile court, they

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probably would have leaned on the podium, and they would have probably been slumped over. That's how teenagers act. It just is helpful if you just tell them how to address "Yes, sir," or "No, sir," or "Yes, Your Honor," or "No, Your Honor." Just let them know in advance so that they can just be a little step ahead. I had to go over in Blount County in front of the former Judge Crawford over there, and he was a stickler. The very first time I appeared in front of him, I went up there, and he said, "Approach the bench." His bench was this high, and I leaned on it. He said, "Adjourn court." And we adjourned. And then his clerk came up to me and said, "Don't ever touch his bench, just never touch it." So I wish somebody had told me that and I wouldn't have touched his bench.

And then I had a client that was like talking to a gourd – he really was – but I took him over to Blount County and we had the first plea of the day worked out. I was from Sevier County and I was going to be able to leave and go home, so I was there entering a plea. And I said, "Say 'Yes, sir' or 'No, sir,' 'Yes, Your Honor' or 'No, Your Honor,' you've got to say that, do you understand that?" "Yeah." "Do you understand that?" So I went over that ten times. We got in there as the very first case, so I'm going to get out of there, because we had the plea agreement worked out. And Judge Crawford says, "Do you understand your constitutional rights?" And he goes, "Yep." He tried that one more time, and he got another "Yep," and he said, "Mr. Stokes, take your client out in the hall and instruct him on proper courtroom decorum and then come back." Well, at twelve p.m. I got to come back. But, anyway, help yourselves out and help your client out by just giving them a little bit, because that will really help them and go a long way.

MAGISTRATE JUDGE CARLTON LEWIS: Just to follow up on that, and the Code of Professional Responsibility, the code of ethics for attorneys, actually

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instructs you – and I wish I had brought it with me – but it tells you that you are to in effect instruct your client on the facts of life, and you don't necessarily have to do it in language that you would use in polite company. And that's basically what the Rules say – if your clients understand something in a certain vernacular, it's your responsibility as the lawyer to explain to your client in language that he or she can understand.³³ If I go to a mechanic and I've got no oil in the oil pan in my car, I don't want my mechanic having me guessing as to whether I ought to drive my car with no motor oil in it. If I'm getting ready to go before a judge, I want my lawyer to explain to me in no uncertain terms what I can expect from this judge. So you, as attorneys, have an absolute ethical obligation to fully inform your client of everything that you can possibly share with your client.

MABERN WALL: My name is Mabern Wall. I'm a 2L here at the College of Law. And as a law student you have the opportunity to take many classes in a variety of different topics of law. But, to my knowledge, there may only be one class here that you can take in juvenile law, and I'm actually enrolled in it. Do you have any advice on how new lawyers – I guess a follow-up to John – can gain expertise in this area? And, like John, in a year I may be practicing in front of you all. How do you suggest we learn the basics of procedures that may actually take years for attorneys to?

JUDGE TIMOTHY IRWIN: Come up and hang around. It's real easy. Be there. If you want to work up there, show your face enough, we'll give you the cases. You need to be there. If you get a case appointed to you and you come up and do a good job and nobody sees you around, you might get another one when that long list comes up again. But if

³³ TENN. RULES OF PROF'L CONDUCT R. 2.1 cmts. (2011).

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you're there and we've got to find a third attorney because Dad has shown up for a hearing and Mom has already got one appointed and there's already a guardian ad litem, and I have to make this hearing go, I can't continue it again. If you're out in that lobby and I send my case manager and I say, "Find me a lawyer," guess who they're going to find, if you're there. Or you can be in the courtrooms watching. You can come now. We welcome you to sit in the courtrooms and watch. Some attorneys come on truancy day and pick up cases and sit and watch. Some days you get one; some days you don't. But hang around, be visible, and be seen. Familiarize yourself with the court staff. Know the nine probation officers, the eight family service workers – that's the level that the cases get assigned – know the magistrates, and make sure they know you. You've got a distinctive name; it will be easy to remember. Get down there and get in front of people. That's how you get opportunities. Show me that you're interested, and I'll believe you after a while.

UNIDENTIFIED SPEAKER: Good afternoon. We've heard so much today about what certain resources are available for children as well as for parents who are having problems parenting. Is there any place in this state a similar handbook to the one that is put out by the Office on Aging for Senior Citizens that would actually point parents to resources before their children end up facing you three?

JUDGE TIMOTHY IRWIN: There is in this county. It's put out by the Compassion Coalition. That's the parent group. I'm not sure the name of it. But it's put out by the Compassion Coalition.

UNIDENTIFIED SPEAKER: Salt and Light.³⁴

³⁴ COMPASSION COALITION, SALT AND LIGHT GUIDEBOOK (3d ed. 2010).

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JUDGE TIMOTHY IRWIN: Salt and Light is the name of it. And it is faith-based organizations. But many of the organizations that serve our courts and our kids and families are faith-based. It's a great resource guide. I get one every year. If you're by, I'll be glad to let you borrow my copy. I think there is a small charge for them. It's a pretty thick detailed book. But the Compassion Coalition – and I don't have their number right off – but you could call Cokesbury³⁵ and ask how to get in touch with them and they could tell you for sure.

JUDGE DWIGHT STOKES: We have one in Sevier County too.³⁶ That is an excellent resource you're talking about. I'd like to add, too, that for anybody who wants to come to Sevier County, I have my address, phone number, and e-mail. If you'd like to come and participate in court or sit in on general sessions or juvenile, if you make arrangements, or if you want to come down and talk about the law, I'll be glad to. I've worked with Professor Rivkin, and he has that information. But I'll be glad for you to come by and spend some time talking about the profession, if you'd ever like to.

JUDGE TIMOTHY IRWIN: If you want to do that, make an appointment. But if you want to just come by and see court, there will always be one running, most all the time all of them are running, except for Dirk, he's kind of gotten a pass right now because he doesn't have a lot of business on the delinquent side. Are you all seeing that in Nashville, slowed down over there?

³⁵ Cokesbury United Methodist Church, <http://www.cclive.org>.

³⁶ SEVIER CO. COMMUNITY RESOURCE GUIDE (2009), *available at* http://www.sevier.org/PDF/crguide_2009.pdf.

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MAGISTRATE JUDGE CARLTON LEWIS: Not really. I wish we were.

JUDGE TIMOTHY IRWIN: I'd like to take credit for that, but I don't know that we can. But our felonies are down from 650 two years ago to 223 this year, forty percent last year, twenty-eight percent last year. So good job. I think it's an endorsement of people that have been working with the kids in the community. Something good is going on. I'm not quite sure why. I just know that we're seeing the results. We could jump back up there this year, but who knows. But the other side of things is more than making up for it right now. Does everybody know where child support is? It's in the old courthouse here. Does everybody know that? Okay. Some of you do.

AUSTIN KUPKE: Hi. My name is Austin Kupke. I'm a 2L law student here at the University as well. And I was just wondering— and, Judge Stokes, you touched on this a little bit – what are your perceptions in your respective courtrooms of differing socioeconomic backgrounds and whether children show up with parents who have resources for them, or can afford private attorneys, versus those who cannot?

JUDGE DWIGHT STOKES: Do I start off with that?

JUDGE TIMOTHY IRWIN: She asked you.

JUDGE DWIGHT STOKES: Obviously, many times there is a tremendous lack of resources in this day and time; that's one reason I was emphasizing trying to get a handle on that, on the needs, and trying to look it up in advance. We have a very receptive staff at our juvenile court. They'll try to match anybody up – and I think these two judges have the same type things – but trying to match up with resources and get some. And we like to do a lot of

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prevention. In other words, if somebody does have issues like you're talking about and if they want to check out any resources through the juvenile court or get with us about some prevention services, those are very good. We try our best, like Tim talked about, you try your best to match up with resources and get anything available. But it is a challenge, and that's one reason that attorneys finding out the needs and finding out the strengths of families and where they'd like to go—we will try to help that in any way, even prior to the hearing date. The more we can put things in motion from the time of a charge or the time of something coming up, putting services in as promptly as possible, it can be of great assistance. But it's a challenge to do that. And there is a big difference in people that can go out and hire a very expensive attorney, and they can come in and say, “Well they've already been in rehab for X number of days and X number of months.” And with those that don't have those resources, it's a matter of trying to get on them as promptly as possible, and see what we can set in as far as mental health assessments and drug and alcohol assessments and try to get some services in, because we've had some success to getting those in early, even prior to hearings taking place.

MAGISTRATE JUDGE CARLTON LEWIS: And anytime there is a budget cut, social services are always the first victims, and among the social services, prevention services are the first to go. What I have been able to do occasionally is sort of leverage the Department of Children's Services. The Department of Children's Services has a responsibility to look for any less drastic alternative to custody, and I will frequently mention to a case manager, if there appear to be no other services available, that I am considering committing a child to the custody of the Department of Children's Services, and ask them if they would like to look for noncustodial services for the child or the family.

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Generally, noncustodial services are far less expensive to the Department than providing custodial services.

JUDGE TIMOTHY IRWIN: Often a good way to play the game – and you as attorneys can certainly be key players in that – you can go to the Department before the date of the case, say, “Look, I need some help, you're going to have another kid dumped on you in custody,” which they don't want. I promise you, they don't want. When it was possible to do this before the influx of TFACTS,³⁷ I was able to look on my computer and determine the number of Knox County children in State custody every day. And I looked at that number not to base my decisions on how many I had in there, but to remind myself that I'm in charge of a delicate resource. There are only so many beds out there; there's only so much money. There are only so many treatment centers and treatment beds, only so many foster families. We try to come up with solutions that avoid custody whenever possible. Columbus Home was reactivated. Columbus Home is the round building that's right next to court that's an assessment center where we hold children overnight or sometimes two or three days. They have to have a hearing after the first night they come in there. They're not in custody, they're being assessed, and while they're being assessed, we're looking for grandma and grandpa, aunt, or uncle. I'll be glad to share that resource with my neighbors in other counties, to tell them how we do it. We think it saves a lot of custody beds at a very good price. That's why that place is there. It's there to prevent kids from going through the trauma of custody when we've got somebody that's coming in from New York who's going to be suitable and we feel pretty good about. Sometimes we'll leave them in there ten days or two weeks. They go to their own schools. They get driven back and forth. They are well cared for. But it keeps us from having

³⁷ Tennessee Family and Child Tracking System.

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a custody event. So we look at that. And DCS was a little shaky about it at first; it took some salesmanship. And they have embraced it and are quick to point out, “Well Columbus Home is empty; you know, we have room at Columbus Home,” when you start facing them with custody. We’re not omniscient because we get robes and we sit on a bench. Sometimes we don’t know. And what a great deal for us to sit back and go, “Man, I get another day to figure out what to do with this kid.” And sometimes you may be telling us one thing in our heart – that it’s a good solution for everybody to have the extra time to wait. I think it could be used not so much as a model, not so much we’re doing it right, but it could be used and shared with some other counties and I think it would greatly alleviate their burden. And I’ll be glad to do that. And I’m waiting on an attorney to talk to a judge and say, “They have this place where they’ll just hold them for a few days until you figure it out, can we use that?” And I certainly will talk to the people that run Columbus Home and see if they can’t make that happen.

Also, we tried to get Magistrate Lewis’s children at the time of the big flood; we tried to get them here in Knoxville. We have a beautiful detention facility. If you’ve never toured it, Mr. Bean³⁸ would be glad to give you a tour. It’s really well run and well-maintained. It accommodates 120 kids. There are twenty-one in it today. We have a lot of empty beds. I think it’s eighty boys and forty girls, or eighty and twenty right now, but there’s room to expand to have twenty more and we just never needed it. But it’s important you understand how that place works. Can you imagine – let me put this in perspective for you. This is something that blows my mind. Two brand-new rubber basketballs every month. In one month’s time, the skin is worn off the basketballs. Think about that. I played with balls all my life on asphalt, and I don’t ever recall

³⁸ Richard Bean, head of the Richard L. Bean Juvenile Service Center.

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wearing one out. They wear out one a month back there. And I want you all to know that goat therapy is well and alive in Knox County Juvenile Court. If you don't know what I'm talking about, you haven't had the experience of having a very young child who needs to step out of court and go back and spend some time with my paralegal in our private petting zoo back behind. That started – I read a unique article about children that were paired with dogs from an animal shelter that weren't able to be adopted.³⁹ It was in New Mexico. And it was a wonderful program and it just warmed my heart. And I went in to Mr. Bean, and I said, “Richard, look at this.” An animal shelter, as you know, is just right next to juvenile court. I said, “Richard, go and let's talk to these people – I mean, we can put a kid with a dog, and the kids train the dogs, and the dogs train the kids, and it's an hour, you know, one night a week.” And the next Monday I went out and there were three goats in a pen. That's the truth. That is the honest truth. So, we do have goats at Knox County Juvenile Court.

JESSICA VAN DYKE: I don't know how to follow up with any story about goats. And I don't know if there are a lot of juvenile courts in the entire United States that have their own goats, so I think that really says something. I'm going to ask you all the same question I asked the last panel, and I think it's just the frustrations of parents that aren't parents and bad parenting – do you all have any advice for attorneys on how to handle parents or about observations or beliefs that maybe you hold that can help us who are going to be practicing in your courts and dealing with these people on a regular basis?

³⁹ See Tami Harbolt and Tamara H. Ward, *Teaming Incarcerated Youth with Shelter Dogs for a Second Chance*, available at http://www.animalsandsociety.org/assets/library/436_s925.pdf.

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JUDGE DWIGHT STOKES: How to deal with parents in general? I just think the main thing is to start off respecting them, trying to find out what they're all about, trying to find out as much as you can about their background. If you see strengths in their family, being able to emphasize those, and to find common ground. Not to be demeaning, to take the time to sound receptive, to be able to work with individual families and individuals, and just be generally interested and try to understand where people come from and the opportunities and the obstacles and some of the things that they're facing that we may never come close to facing. And sometimes you have some ground. But I think starting off that way, where you're genuinely interested, give them an opportunity to talk and speak without your having to say much, and let them get it out of their system, is a good gift to have. And then go from there.

PENNY WHITE: Does anyone have another question?

MAGISTRATE JUDGE CARLTON LEWIS: Let – okay. Go ahead.

PENNY WHITE: I'm sorry.

MAGISTRATE JUDGE CARLTON LEWIS: No, Judge White, I probably –

PENNY WHITE: No. Again, I've sat here all day and maintained silence and I'm going to do that for a little while longer.

MAGISTRATE JUDGE CARLTON LEWIS: The problem is, if somebody will shut me up, I'll get out of here without getting into trouble. But if you don't shut me up, I'm going to say –

PENNY WHITE: Bring it on.

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MAGISTRATE JUDGE CARLTON LEWIS: – something that I'm going to get in trouble for.

JUDGE TIMOTHY IRWIN: Let me respond to that young lady's question with: brutal honesty early. Three words: Brutal. Honesty. Early. Tell them. Nobody likes surprises. Tell them. Tell them exactly what they're up against and exactly what's going to happen. It's not like you don't know. I mean, you've seen it before. You can tell them, "This is our best shot, this judge is going to do this." Nobody keeps this – we haven't kept anything secret. We're doing it right out in the open. Oh, secrets. Secrets. I hate the fact that juvenile court doesn't have a court reporter down there full-time. I understand some other courts are losing their court reporters. You can walk up to my bench in plain view and set a tape recorder up there whenever you want. I don't want to be videoed – that's a personal preference – but I don't want to be sneak-recorded. I want it done in plain view. I want everybody to know about it. And if somebody makes a recording, it's shared by all. You can do that whenever you want. I think you're crazy not to do it. It wouldn't insult me a bit. Bring your recorder, set it right up there, and we'll treat it for what it's worth. At least it may give you accurate information with which to do your orders, if nothing else. It may be you're having that discussion with your client. The client says, "Well he said so and so," and you say, "No, he didn't," and you play it back. I think it's just good to protect you. I mean, you guys get a ton of Bar complaints that are unmerited. You've got a ton of really ticked-off parents that are mad at you, that say, "It's my lawyer's fault." And I think this is a great way to protect you, to show that you're zealous. And also, at least at the next de novo hearing in circuit court, that recording would get a lot of respect just like it does in sessions court. Everybody understands the economics. Nobody has the money to pay a court reporter on 31,000

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cases, but it won't hurt my feelings a bit. And I'm sure – I've never tried it in Sevier County but I doubt – if I told you about it, you'd probably be all right with it, wouldn't you?

JUDGE DWIGHT STOKES: Yeah, we do tape everything but –

JUDGE TIMOTHY IRWIN: Well, you're in sessions court a lot of the time and you have a tape running.

JUDGE DWIGHT STOKES: – Right. We do tape and all in juvenile court, but yeah, you can ask me about it in advance. We'll have one but it –

JUDGE TIMOTHY IRWIN: Again, don't surprise us. Don't surprise us. I learned I was being filmed about halfway through, and I wasn't a happy camper. It was a young lawyer and he had a very fancy-looking recorder I thought it was a telephone. But it wasn't – it was going, it was recording. But we took care of it. He brought it back there and we erased it. He showed me how he did it, but it still was uncomfortable.

PENNY WHITE: Judge Lewis, really –

MAGISTRATE JUDGE CARLTON LEWIS: I'm okay.

PENNY WHITE: I just want to tell you what a privilege it has been to hear all the panelists today and, an even greater privilege, to work with the student members of the *Tennessee Journal of Law and Policy* who I quasi-advise. So I'd like for all of the student members of the Policy Journal to stand up and be recognized and thanked by this audience, please. (Applause). There usually aren't that many students total in this building at four-forty-five p.m. on a Friday afternoon. They have worked their socks off, their hearts out. They have been so passionate about this.

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And I've been saying all day long, "No symposium next year, I'm so tired, no symposium." But after a turnout like this and a day like today, it would be very hard not to let them fly and soar again next year the way that they've done this year. So I want to thank everyone for coming, and especially hats off to the Journal staff. And I think John has a final presentation.

JOHN EVANS: Yeah. We want to present you guys with a couple of little mementos you can take with you. Just one more round of applause for our final panel. (Applause) I've just got a couple of quick announcements before we let you guys go. We'd also like to recognize – I said it earlier but we didn't really do it as much as we needed to – Jessica Van Dyke is our symposium editor. I don't think there's anybody else in this planet that has put more into this symposium than her. Basically since the idea was formed, she's done everything from name tags, to materials, to calling the speakers, just pretty much everything all around to make sure this happens. Professor White went ahead and got her some flowers. We just want to present that to her. (Applause) Thank you again for coming. We really appreciate it. Have a good rest of the evening. (Whereupon the symposium was concluded).

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