

***PROTECTING CHILDREN AND  
REUNITING FAMILIES***



***THE HISTORY OF JUVENILE DEPENDENCY COURT***

***SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA***



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### **INTRODUCTION**

This project began with an idea that Judge Leonard Edwards shared with Judge Paul Bernal in a parking lot. Judge Edwards had prepared a brief paper which he thought the Court Historical Committee (Superior Court, Santa Clara County) and the Bench & Bar Historical Society of Santa Clara (a non-profit) would be interested. Bernal saw the makings of a booklet, and so Judges Edwards, Bernal and Mark Thomas set out on producing this booklet. Edwards greatly expanded the work while Bernal and Thomas edited, with input from Judge Katherine Lucero. This is the final product.

The Court Historical Committee and the Bench & Bar Historical Society of Santa Clara thank Judge Edwards for his enormous contribution to the Dependency Court in Santa Clara County, to the formation of improved courts throughout the United States, and to this booklet. Judge Edwards was and is a major driving force in the development of the modern dependency court. During his many years on the dependency bench, he was a national expert on “what worked.” He shared his successes nationally, which helped untold numbers of courts improve their service to the families in their communities. One need not read too far into this work to realize the author has a mind open to change. When Judge Edwards heard of new ways to do things he found out about them, either by traveling to wherever they were unfolding or by learning from someone else who had been there. This has benefited not only the court in Santa Clara County, but courts throughout the country.

Upon Edwards’ recent retirement from the court, the Administrative Office of the Courts in 2006 created a new post at the AOC so that all courts could benefit from Edwards’ knowledge. As Judge-In-Residence, Edwards works with the AOC’s Center for Families, Children & the Courts on programs to improve court services for children and families in California.

Credit for the publication of this booklet goes to Superior Court Executive Secretary Mahalia Long. It is her wonderful talents that created the final product. Some of photographs and older history were provided by Thomas and Bernal.

2008 Judge Paul Bernal  
Judge Mark Thomas (retired)

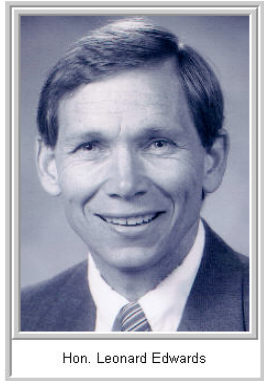
Bench & Bar Historical Society of  
Santa Clara County  
and the  
Santa Clara Superior Court  
Historical Committee

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# PROTECTING CHILDREN AND REUNITING FAMILIES

## THE HISTORY OF JUVENILE DEPENDENCY COURT SUPERIOR COURT, COUNTY OF SANTA CLARA

By Judge Leonard Edwards (retired)



Hon. Leonard Edwards

The history of the juvenile court starts with its creation in 1899 in Cook County (Chicago), Illinois. California's first juvenile court legislation, covering both delinquency and dependency, was enacted in February 1903. The various courts – Superior, Justice and Police – were all authorized to hear juvenile cases. Language in the act included: “For the purposes of this act, the words “dependent child” shall mean any child under the age of sixteen who is found begging, or receiving of alms...or who habitually visits, without parent or guardian, any saloon....” (Stats. 1903, 35th Sess., Ch. 43, pages 44-

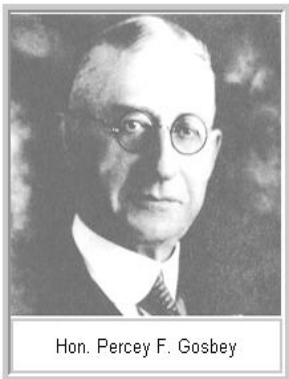
48.)

In March 1905 additional legislation was adopted, and on December 14 of that year Santa Clara County Superior Court Judge Michael H. Hyland appointed a Probation Committee of seven leading citizens. Five days later the San Jose Daily Mercury noted, “In this county all cases coming under the provisions of the act will be heard by Judge Hyland at special session of the court.”



Hon. Michael Hyland

The next action of note was taken by Superior Court Judge Percy Gosbey who by 1910 became the Juvenile Court judge. He proposed that juvenile court hearings become private and that there should be a detention home. “The only detention home we have now is the county jail. In that institution at the present time are six children. It's a shame, and there is a girl among them.” In due course his suggestions were met.



Hon. Percy F. Gosbey

The next major development was in 1957 when Governor Edmund G. “Pat” Brown created a Special Study Commission. Its report in 1960 formed the basis for a major revision in juvenile court law the following year. According to, *California Juvenile Court Practice* (1981), Continuing Education of the Bar:

“The 1961 legislation created for the first time three distinct jurisdictional categories: delinquent, status offenders, and children who are neglected or dependent...a bifurcated hearing procedure was established under which separate

hearings would be conducted for jurisdiction and disposition...significant procedural innovations were incorporated.

Those innovations included the right for both parents and children to be represented by retained and indigent minors by court-appointed counsel. Minors were also provided the rights to have adequate notice of charges, confidentiality, prompt detention hearings, and an annual review in all dependency cases.” (*California Juvenile Court Practice* (1981) Vol.1, p.8, California Continuing Education of the Bar.)

The juvenile dependency court was not a significant part of the workload of the California Superior Courts until after 1980. That was the year the United States Congress passed and President Carter signed the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) (The Act). Prior to the passage of that bill and parallel California legislation implementing the federal law, juvenile dependency cases were rare. They were a tiny fraction of the overall caseload of the entire court, and within juvenile court they took up less than 5% of the juvenile cases. Santa Clara County now has three departments dedicated solely to dependency issues.

The new federal and state laws of 1980 were codified in the California Welfare and Institutions Code. They dramatically increased the role of the judge in juvenile dependency cases. These laws required comprehensive court oversight and approval of social worker activities regarding allegedly abused and neglected children throughout the time the children were before the court system. When a child was involuntarily removed from a parent by the Department of Social Services or Child Protective Services (The Department), the new law required the court to determine whether The Department had exercised “reasonable efforts” to prevent the removal. The court was required to determine whether it would be detrimental to return the child to the parent from whom the child had been removed. The law further required the court to determine whether the allegations of abuse and neglect were true, and then determine where the child would live and approve a service plan for the parents and child.

If the child were removed from the parents, the court would approve a reunification plan designed to reunify the child with the parents within a specific time frame. Under the law in 1980 the parents had from 12 to 18 months to reunify with their child. After ordering a dispositional plan, the court was required to set hearings to monitor the health and safety of the child, the progress or lack thereof by the parents, and the adequacy of The Department’s actions to provide the parents with services and to ensure that the child’s best interests were served. At the conclusion of the statutory reunification period, if a permanent placement had not been determined earlier, the court would decide whether the child would be returned to the parents or whether a different permanent plan would be established for the child. The four alternative permanent plans identified by the statutes were return to a parent, adoption

(after termination of parental rights), guardianship, and long term care in a relative home, foster home or group home. Under the law the least favored plan was long term foster or group home care.

Since 1980 both the federal and state laws have been modified. In 1997 Congress passed the Adoptions and Safe Families Act (ASFA) which tightened the limit for family reunification to 12 months, stressed that child safety was the primary goal of the federal law, expanded the factual grounds that would permit the court to rule that a parent was not entitled to family reunification services, and mandated that the court monitor the permanency process in order to ensure that children did not remain in foster care for indefinite periods of time. California statutes tracked the federal law, but added other important provisions. Subsequent California legislation declared that if a child was under three years of age at the time of removal from a parent, the time for family reunification could be limited to six months if the parents were not making substantial progress in complying with the service plan.

California's new laws dramatically expanded the grounds for denying parents the opportunity to receive reunification services. The most frequently utilized of these grounds have been (1) a parent previously had a child under the jurisdiction of the dependency court and had reunification services terminated, (2) a parent previously had a juvenile dependency court terminate parental rights with regards to a sibling or half-sibling, and (3) a parent had a serious drug abuse problem that had been long-standing and the parent had an opportunity to address the problem, but was unsuccessful in doing so. Pursuant to these new provisions, if the juvenile court found the facts pursuant to one or more of these grounds were true and also found the parent had not made a substantial change, the court could order The Department not to offer family reunification services to the parent or parents.

Since passage of The Act, these laws have had a significant impact on the juvenile dependency courts across California. By 2006 dependency cases comprised approximately one-half of the work of the juvenile court. They have become the most costly proceedings in the Superior Court because of the number of attorneys and service providers who participate in these cases. Many consider them the most important legal proceedings heard by the Superior Court because they determine the outcomes for the county's most vulnerable children. Just how the Santa Clara County juvenile dependency court has evolved to address these cases is contained in this record.

## **SIGNIFICANT EVENTS IN THE HISTORY OF THE SANTA CLARA COUNTY JUVENILE DEPENDENCY COURT**

**1960s** – Judge Homer B. Thompson presided over Santa Clara County juvenile court for many years during the 1960s. He was a leader, an innovator, and author of

California's first *Deskbook* for juvenile court. For many years the *Deskbook* was the only secondary source describing juvenile law in California. While delinquency and status offenses took most of the juvenile court time in the 1960s, Judge Thompson worked with the County Juvenile Probation Department to develop the state's first dependent intake unit. This unit specialized in the investigation and prosecution of child abuse cases in juvenile court under the child welfare law. The unit would investigate allegations of child abuse, file petitions, and then supervise those cases after dependency had been established. The unit became a model for other court systems throughout California.



Hon. Homer Thompson

**1977** – Assembly Bill 3121 became law in California and forever changed the nature of the juvenile court. Pursuant to AB 3121, the court no longer had the authority to incarcerate status offenders (children who ran away from home, were truant or beyond control of their parents), and the District Attorney became the moving party in all delinquency cases in California. This statutory change resulted in the disappearance of status offenders (Welfare and Institutions Code section 601) from the juvenile court. Also, for the first time the District Attorney established an office at the County Juvenile Probation Department at 840 Guadalupe Parkway, the location of the juvenile court. Prior to that time the District Attorney would only send attorneys to the juvenile court if requested by the probation department to assist in the presentation of evidence at trial.

On occasion the probation department would ask the District Attorney's office to assist in the preparation of petitions and the presentation of juvenile dependency cases in court. The deputy district attorneys who appeared in juvenile court at that time included Louis Quick and Albert Mills, followed by Robert Masterson. It was primarily Masterson to whom the Juvenile Probation Department turned for assistance in juvenile dependency cases. Today, the majority of published state law decisions in dependency law come from appeals filed by Masterson.



Robert Masterson

**1980** – The United States Congress passed Public Law 96-272, The Adoption Assistance and Child Welfare Act of 1980 (The Act), giving the nation's juvenile and family courts a significant role in the processing of child abuse and neglect cases. In 1981 in Santa Clara County a Multi-Disciplinary Team (MDT) was formed to address the issues raised by the new law. The MDT met monthly to provide confidential consultation for child welfare professionals, teachers, and medical professionals regarding child abuse cases.

Additionally, 1981 marked the formation of the County Child Abuse and Neglect Coordinating Council (CANCC). This later became the Child Abuse Council (CAC), a

council under the authority of the Board of Supervisors that has met regularly to discuss issues regarding child abuse and neglect. This council also sponsors an annual Child Abuse Awareness Symposium.

**1983** – For over 20 years prior to 1983 the Santa Clara County Superior Court assigned two full-time judges and one referee to the juvenile court for all juvenile matters. The judges would rotate to other assignments after one or two years, but the referee remained. That referee was John Brokenshire, an institution at the juvenile court, usually the first judicial officer that young delinquents and families would encounter. Referee Brokenshire started his career as a Traffic Hearing Officer and then was appointed to the position of Referee by the Superior Court. The few dependency reviews that were heard during those years were held in Referee Brokenshire’s department one afternoon a week. A representative from The Department appeared before the referee. Very few attorneys participated in these hearings. At that time, foster children’s cases were reviewed by the court once a year in so-called annual reviews. State law subsequently required semi-annual reviews, and since 1985, the Santa Clara County Juvenile Dependency Court has introduced a practice of multiple reviews for children under the jurisdiction of the court.



In 1983, Referee Brokenshire retired and the Superior Court hired Melinda Stewart to replace him. At the same time, the court had rising caseloads and was in need of additional judicial support. Kristine McCarthy was hired as a full-time temporary referee from 1983-1986. In 1984, Judge Read Ambler, the Presiding Juvenile Court Judge from 1983-1984 replaced Judge Lawrence Terry in that role.

Judge Terry had served as Presiding Judge of the Juvenile Court for more than three years. Ambler assigned Referee (later Judge) Stewart to hear all of the dependency review hearings. She served in this capacity until 1989 when she was appointed as Judge of the Superior Court. In 1986, Referee McCarthy’s position was replaced by a Superior Court Judge who was assigned to a different division of the Superior Court. Because of the vacancy this created in the juvenile court, the Superior Court re-hired Kristine McCarthy in 1987 to be a second full-time referee in the Juvenile Court. By that time the juvenile court had three judges and two referees assigned to do all juvenile cases: delinquency and dependency.



**1985** – The Office of County Counsel began its representation of The Department in juvenile dependency cases in 1985. Judge Leonard Edwards, assigned to serve as Presiding Judge of the Juvenile Court in 1985, approached the Board of Supervisors and asked the Board to fund attorneys to represent The Department. On December

11, 1985, the Board of Supervisors funded the establishment of one new attorney position from the Office of County Counsel to represent The Department and the Juvenile Probation Department in juvenile court hearings relating to dependent children. Prior to that time, from 1979-1985 attorneys from the Office of the District Attorney, principally Robert Masterson, would appear in dependency cases on an *ad hoc* basis. Since the late 1970s, Masterson had assisted the Juvenile Probation Department in the preparation of petitions and the presentation of its case at jurisdictional hearings.



Diane Bennett

The first attorney who was assigned from the Office of County Counsel to represent the interests of The Department was James Lewis. At the outset, he appeared almost exclusively in Referee Stewart's department. The next two attorneys from the Office of County Counsel were Diane Bennett and Jamie Jacobs-May (now a judge). At first, they worked exclusively on termination of parental rights cases pursuant to Civil Code section 232. Those cases were heard in the Civil Division of the Superior Court.

They were followed in the next two years by Donald Fallon, L. Michael Clark (also now a judge) and Suzann Beglau. They were all supervised by Robert Menafee. By 2007, the number of attorneys had grown to 16, including two Supervising Attorneys, Michael Clark and Carol Robinson.



Hon. L. Michael Clark

As the Office of County Counsel assumed its role as legal counsel for The Department, the District Attorney's Office shifted over to represent dependent children exclusively. In 1989, the Superior Court asked for bids from law offices interested in representing the children who were before the juvenile dependency court. The court selected an out-of-county law firm led by Harold LaFlamme, Dennis McNerny and Gary Proctor, but the Board of Supervisors overruled the court and designated the District Attorney's Office as the legal representatives of those children. At that time the District Attorney's Office made some significant internal changes in their representation of children.



Penelope Blake

The office began to recruit attorneys to serve in juvenile court who were interested in working there and who would commit to multiple years of service in the dependency court. The first two of those attorneys were Dolores Carr (later a judge and The District Attorney) and Penelope (Penny) Blake. Robert Masterson remained in juvenile court as supervisor of the entire juvenile division of the District Attorney's Office. The state legislature passed Welfare and Institutions Code section 317 affirming that the office of the District Attorney could represent children in juvenile

dependency cases. At this time, Masterson developed a protocol that described how the new dependency unit of the District Attorney's Office working in the juvenile dependency court would be separate from all other divisions of that office in order to avoid conflicts of interest and to conform to state law (Welfare and Institutions Code section 318).

Throughout these years, indigent parents appearing in juvenile court were represented by the Public Defender's Office. The supervisor of that office was Howard Siegel, who was assigned to the juvenile division in the late 1970's. Siegel remained with the Public Defender's office until it was replaced by the Juvenile Defender's Office in 1997, and then he joined that office as a supervising attorney.



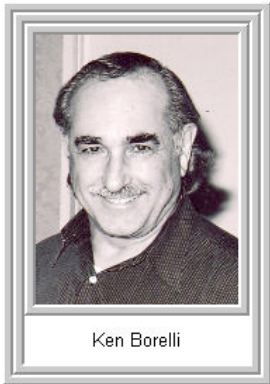
**1986** – The Child Advocate Office was created. Judge Leonard Edwards worked with Nora Manchester, a citizen volunteer, to start a child advocacy program modeled on the national CASA (Court Appointed Special Advocate) program. Manchester became the first Executive Director of the new program. Under this program, trained volunteers from the community were appointed by the court, with each volunteer to speak on behalf of one child throughout the dependency proceedings and to provide written reports to the court at each hearing. In the first year of the office, there were 75 volunteer advocates. In 2005 the office trained and supported 680 volunteers. From 1986 into 2007, the office trained and supported several thousand volunteers.

The program has distinguished itself in California and across the nation. At different times, National CASA has recognized individuals associated with the Child Advocate Program as Judicial Officer of the Year (Judge Edwards, 1992, and Commissioner Patricia Bresee from San Mateo in 1998), Executive Director of the Year (Nora Manchester 1993), and CASA Board Member of the Year (Kevin Gardner, 2004). In 1990, President George H. W. Bush named the program a "Point of Light." As of December of 2005, the Child Advocate Office had joined with San Mateo County and had become the largest CASA program in the world, with more than 777 volunteers. Manchester was succeeded by Deputy District Attorney Bill Corwin and later Mary Helen Doherty. Gisela Bushey was the Executive Director as of 2007.

The Child Death Review Team was also formed in 1986. This team reviews all coroner cases of child deaths in the County. It also has suggested improvements in laws and system responses to child abuse.

During the late 1980s, the Dependent Intake Unit of the Juvenile Probation Department under the leadership of Probation Officer Paul Jordan, MFCC, created an Intensive Intervention program. This program utilized graduate students working for

their licenses as Marriage and Family Counselors to work with families at the beginning of the dependency process. The program was extremely effective and resulted in a high rate of case resolutions. The success of the Intensive Intervention program persuaded all those who observed it that early intervention in juvenile dependency cases was very effective in resolving both legal and social issues.



**1987** – Judge Edwards worked with the State Department of Social Services and the Child Welfare Directors of California to organize the first state-wide multi-disciplinary conference for all participants in the juvenile dependency system. Named Beyond the Bench by then Social Worker Supervisor (and as of 2006 Deputy Director) Ken Borelli, this conference was the first of its kind nationwide and has become a model for other states. While there were less than 100 attendees at the first conference, more than 900 attendees were present at the 18<sup>th</sup> Beyond the Bench in 2005 and over 1,000 in 2006.

Also in 1987, Robert Carroll, a probation officer well-known for his work in the Dependency Intake Unit of the Probation Department was named Coordinator of Child Abuse Services by the Board of Supervisors.

**1988** – The juvenile dependency court working with the Santa Clara County Family Court established the state's first protocol for the management of alleged child abuse and neglect cases that arise in the context of family court proceedings. The protocol was made a part of local court rules and several training sessions were conducted on the subject. In subsequent years additional trainings were conducted to ensure that all professionals were aware of this protocol.

In 1988, Judge Edwards learned that there were over 1,000 dependency cases where permanent plans had been established by the court, but the legal work to complete them had not been completed. At that time there were approximately 3,900 children under the jurisdiction of the juvenile dependency court with a county population of approximately 1,500,000. Judge Edwards asked the Board of Supervisors for assistance. In June of 1988, County Counsel Donald Clark asked the Board for authorization to hire an additional attorney for the Office of County Counsel to address the backlog. Over the next two years approximately 1,000 children achieved their permanent plans of either adoption or guardianship.

The legal structure for termination of parental rights and guardianships was changed by new legislation in 1988 when the Civil Code section 232 process was eliminated for all children declared dependents on or after January 1, 1989. Thereafter, both terminations of parental rights and guardianships were heard in the juvenile dependency court as opposed to the Civil Division of the Superior Court. This

statutory change resulted in significant time savings because under the new law it was no longer necessary for The Department to file a separate civil action in the Superior Court to complete the legal process necessary to arrive at a permanent plan for a child.

In 1988, the District Attorney Juvenile Unit separated into the Dependency and Delinquency Units. Five deputies were assigned to the Dependency Unit and four to the Delinquency Unit. By 2006 the Dependency Unit had 11 attorneys and numerous social workers and investigators. These attorneys represent only children. Since the late 1980's every child in the juvenile dependency court has been represented by an attorney. Moreover, attorneys representing children have appeared at all initial hearings since the late 1980s. In 2000 as the result of a state statute (SB 2160), the role of guardian *ad litem* was added to the responsibilities of all attorneys representing children in dependency court. This statute, (Welfare and Institutions Code section 326.5) was necessary for the State of California to be in compliance with the federal Child Abuse Prevention and Treatment Act (PL 93-247). The statute required that attorneys representing children had to represent both the wishes of the child and the child's best interests.

Also in 1988, Judge Edwards and Supervisor Dianne McKenna formed Kids In Common (KIC), a public-private organization dedicated to improving outcomes for children in Santa Clara County. In the years that followed KIC would produce the Children's Report card, and staff the *Greenbook* project as well as the Joint Response project. (See below.)

**1989** – An earthquake in October of 1989 required the juvenile court to temporarily relocate from its home at 840 Guadalupe Parkway, the headquarters of the Juvenile Probation Department. The building was closed for repairs for several months. The next year when it was ready to reopen, the Presiding Judge of the Superior Court, Judge Read Ambler, decided that it was time for the dependency court to move elsewhere and would not permit the dependency court to return to 840 Guadalupe Parkway. Thereafter, juvenile delinquency cases and juvenile dependency cases would be heard in separate buildings.

The location for the dependency courtrooms that was first selected was 26 North First Street, a rather run-down office building in downtown San Jose. After two years at that location the juvenile dependency court moved to the second floor of the Court Annex at 115 Terraine Street, where it remains today. The dependency court by this time had expanded to one judge and two commissioners. The Juvenile Delinquency Court remained at 840 Guadalupe Parkway with three Superior Court judges and no commissioners assigned to that division.

During that same year, the three judicial officers in the dependency court implemented a “one judge – one family” policy so that the same judicial officer would hear a family’s case from beginning to end.

Referees Kristine McCarthy and Ann Ollinger (hired by the Superior Court after Melinda Stewart was appointed to the Superior Court in 1989) were designated commissioners by the Superior Court. Under California law, the commissioner position afforded each greater judicial power. During the same year all of the subordinate judicial officers in the Superior Court of Santa Clara County were designated commissioners.

In 1989, Judge Edwards convened a court systems meeting by bring together representatives from all participants in the child protection system. These monthly meetings later became a national model as they were able to focus on court improvement issues and establish a collaborative working relationship among all the interested participants in the system. [Edwards, L., “Improving Juvenile Dependency Courts: Twenty-Three Steps,” *Juvenile and Family Court Journal*, Vol. 48, 1997, at p. 9.]

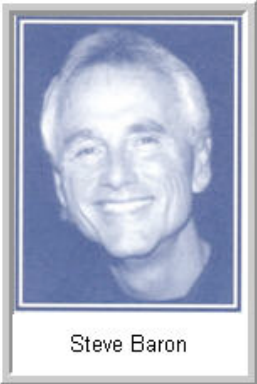
**1989-1990** – The Department replaced the Juvenile Probation Department as the governmental agency responsible for conducting investigations in juvenile dependency cases. This was a hotly contested issue that was finally decided by the Board of Supervisors. After this change The Department had full legal responsibility for the investigation and supervision of child abuse and neglect cases in Santa Clara County.

In 1990, San Mateo County became a part of Child Advocate program. The new name was Child Advocates of Santa Clara and San Mateo Counties.

**1991** – Judge Edwards consulted with Steve Baron, MFCC, then a mediator with Family Court Services and formerly a deputy probation officer, concerning the use of mediation in juvenile dependency cases. At Judge Edwards’ request, Baron mediated several difficult dependency cases with outstanding results. Judge Edwards then worked with the Superior Court administration and with Family Court Services to establish one of the first juvenile dependency court mediation programs in the country. It officially started in March 1993. Since that time the program has established itself as the premier dependency mediation program in the country. Over 100 judges and court representatives from 27 states, the District of Columbia and several foreign countries have visited Santa Clara County to observe the mediation program in action. Scores of mediation programs have developed across the country with guidance from the Santa Clara County team. [Members from each participant in the Santa Clara County Dependency Court team (12 authors) wrote an article describing dependency mediation entitled: “Mediation in Juvenile Dependency Courts: Multiple Perspectives,” *Juvenile and Family Court Journal*, Vol. 53, No. 4 (2002) at pp. 49-65. Judge Edwards

wrote a parallel article describing the Santa Clara County mediation program. Edwards, L., "Mediation in Child Protection Cases," *Journal of the Center for Families, Children, & the Courts*, Vol. 5, 2004, at pp 57-70.]

In 1995, Steve Baron worked with the juvenile dependency system and the domestic violence advocacy organizations in Santa Clara County to develop a domestic violence protocol for dependency mediation. That protocol was adopted almost in its entirety and was incorporated into California Rule of Court 5.518 (formerly 1405.5). Baron wrote section 7.60 of the California Administration Reference Manual (CARM) on Dependency Mediation for the Administrative Office of the Courts. It was published in 2005.



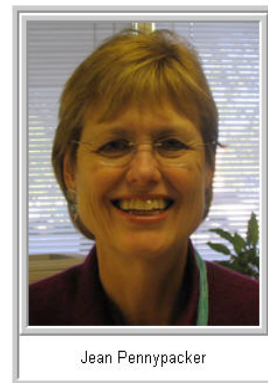
In March of 2001, the Santa Clara County Dependency Mediation Program achieved national recognition when it was given the Dave Thomas (of Wendy's) Award for Excellence in Achieving Permanency. The award was presented at a National Conference in Columbus, Ohio, where Baron accepted the award on behalf of the Santa Clara County Superior Court.

Also in approximately 1991, Judge Edwards met with Joseph Yomtov, the Director of the Victim-Witness program in Santa Clara County. Yomtov used his creativity to expand the eligibility for victim services to include many of the abused and neglected children who appear in juvenile dependency court. Yomtov even placed one (later two) of his victim compensation eligibility workers in The Department so that there would be easier access for social workers to claim benefits for their clients. Judge Edwards and the commissioners began the practice of asking social workers in court hearings whether victim-witness funding had been sought for eligible children. The benefits include up to \$10,000 in counseling services.

Also in 1991, the Santa Clara County Superior Court established the Family Resources Division. Based on the recommendations of the *Final Report* of the California Child Victim Witness Judicial Advisory Committee from the Attorney General's Office and on subsequent legislation, SB 218 (Lockyer), the Superior Court received one of two state grants supporting the creation of a Judicial Demonstration Project. This three year grant was awarded to Superior Court to implement and evaluate the recommendations of the California Child Victim Witness Judicial Advisory Committee. The result was the creation of Family Resources Division, a new division within the Superior Court encompassing all calendars that dealt primarily with children and family issues. The goals of the pilot project emphasized long term judicial assignments to the division, a "one-judge one-family" approach to the administration of related court proceedings, cross-training among judges of the different calendars within the division, the development of protocols regarding the exchange of information

between courts hearing cases involving the same family, and addressing the issues relating to the unique needs of child victims appearing in court.

This effort by the Superior Court was one of the first attempts at instituting a unified family court in California. The Advisory Committee had three representatives from Santa Clara County: Deputy District Attorney Robert Masterson, Sylvia Pizzini, and Judge Edwards. The Superior Court created a new administrative position to oversee the new Family Resources Division. Kathy Smith was the first administrator in that position. Jean Pennypacker took over the position in 1995.



**1991-92** – Judge Leslie Nichols presided over the Juvenile Dependency Court. Judge Edwards was serving as Assistant Presiding Judge and then Presiding Judge of the Superior Court during those two years. It was in 1991 that the dependency court moved to Terraine Street. The Terraine Street facility has provided an excellent venue for the juvenile dependency court. It has three waiting rooms for adults, one for children and one for victims. There are offices for all four primary law firms that practice in the dependency court (Dependency Legal Services, Associate Dependency Attorneys, the District Attorney and the County Counsel) and an office for social workers. There is also a room dedicated to mediation.

At the time of the move of juvenile dependency court operations to Terraine Street, the three judicial officers were Judge Nichols, and Commissioners Anna Ollinger and Kristine McCarthy. Judge Edwards returned as Supervising Judge in 1993. After Ollinger retired in December 1999, Deputy District Attorney Katherine Lucero was hired by the Superior Court to take her place. When Commissioner Lucero was appointed Superior Court Judge in 2001, her position was assumed by Shawna Schwarz, then Director of LACY (Legal Services for Children and Youth) who later was appointed to the Superior Court.

On August 12, 1992, a mentally disturbed father of several dependent children entered the Terraine Street building with a loaded gun and engaged in a shoot-out with the deputy sheriffs at the entrance security station. Several deputy sheriffs were injured, but no citizens. This was the most traumatic event in the history of the Santa Clara County Juvenile Dependency Court. The father was prosecuted and sent to prison.

In 1991, the Santa Clara County Grand Jury wrote a report critical of the lack of coordination among the different agencies investigating child abuse cases. The jury pointed specifically to law enforcement, The Department and the Office of the District Attorney. They were particularly critical of the multiple interviews that children experienced as each agency did its work. In 1992, Judge Edwards convened a multi-

disciplinary team of local leaders to attend a Transfer of Knowledge (TOK) workshop sponsored by the California Youth Authority. The topic of the TOK was the coordination of investigative efforts by law enforcement, The Department, and the District Attorney's office in cases involving children who might appear both in dependency and criminal proceedings. The result of the TOK was a Memorandum of Understanding signed in October of 1992 between those three offices. The MOU stressed the need for coordination and the creation of a position of Multi-Disciplinary Specialists who would be available to interview child victims.

Also in 1992, a lawsuit filed at the request of the District Attorney on behalf of children placed at the Children's Shelter was settled allowing some children temporarily placed at that facility to attend their home schools rather than the Shelter school.

**1995** – During 1995 the juvenile dependency court sponsored public meetings. These hearings were held in the Board of Supervisors Chambers and offered the public an opportunity to give their opinions about the operation of the juvenile dependency court and its operations. The court received testimony and statements from a broad spectrum of professionals, community advocates and citizens. Transcripts of these hearings are still on file with the juvenile court.

The new Children's Shelter opened at 4525 Union Avenue in San Jose. This is a state-of-the-art facility financed by a unique public-private partnership. It replaced the old shelter on Roberts Road.

Also in 1995, the juvenile court produced a comprehensive set of local Rules of Court. These were approved by the Superior Court and by the California State Administrative Office of the Courts. The local rules covered juvenile delinquency, juvenile dependency and the relationship of different divisions of the Superior Court with regard to children and families.

**1996** – *Somebody Else's Children* by John Hubner and Jill Wolfson was published. This book was about the Santa Clara County Juvenile Dependency Court, the first book of its kind in the nation to look behind the confidentiality that usually shields the Juvenile Dependency Court from public scrutiny. Judge Edwards had granted the authors, experienced newspaper reporters from the San Jose Mercury News, access to the entire juvenile court system and to every person in it who was willing to talk to them. Edwards established a process whereby the confidentiality of the children and families described in the book was protected. The book was a national success and was reissued in 2003. It is required reading in many schools, colleges and departments of social work.

In 1996, Judge Edwards was named Juvenile Court Judge of the Year by the Juvenile Court Judges of California.

**1997** – Pursuant to state law (AB 233, the Lockyer-Isenberg Trial Court Funding Act of 1997 and SB 243) local Superior Courts were given the authority to hire the attorneys to represent parents and children in juvenile dependency cases. Pursuant to this authorization every three or four years the Superior Court has offered the legal community the opportunity to make bids to provide legal services to children and parents appearing in dependency cases. Traditionally in Santa Clara County parents had been represented by the Office of the Public Defender and attorneys from a conflicts panel organized by the Santa Clara County Bar Association. Children have always been represented by the Office of the District Attorney.

The Office of the Public Defender ceased representation of parents in juvenile dependency matters. The Public Defender, Jose Villareal, informed the juvenile court that the Public Defender found that the work in the juvenile court was not suited for the attorneys who worked in his office. As a result the Superior Court issued a Request for Proposals (RFP) and hired Santa Clara Juvenile Defenders, a law firm headed by Gary Proctor, an experienced lawyer from Orange County. Consistent with Welfare and Institutions Code section 350, the RFP emphasized that the Superior Court was looking for a law firm that was comfortable working in a non-adversarial, collaborative setting. Proctor had significant experience in Orange County providing legal services to parties appearing in the juvenile and criminal courts. He hired a number of local attorneys and set up two law firms (Associate Dependency Attorneys and Dependency Legal Services), as well as additional attorneys to provide legal services when there was a conflict of interest between parties in a case. When these law firms were established there were ten attorneys and six paralegals. Three of the attorneys were former employees of the Public Defender's Office and the existing conflicts panel including Howard Siegel.

As with most California counties, court appointed lawyers provide about 98% of the representation for parents in dependency court. Less than 2% of the parents who appear in juvenile dependency court hire private attorneys. Some parents choose to represent themselves. As of 2005 Santa Clara Juvenile Defenders employed 18 attorneys, six paralegals and four mentors for moms. Since the late 1980s every indigent parent has been provided free legal representation by the juvenile dependency court. Attorneys are appointed at or before the first hearing and are able to interview their clients before that hearing. This procedure has been practiced for years ensuring that parents are well represented at the initial hearing.

The leadership of the Juvenile Defenders has helped the court continue to develop collaborative projects such as the Dependency Drug Treatment Court (DDTC). Proctor recognized the value of hiring successful DDTC graduates to serve as mentors

for new clients. The “Mentor for Moms” program won national acclaim through the Model Courts, and grants have been obtained to expand the mentoring program. Grants to the DDTC have also led to the expansion of legal services provided by the Juvenile Defenders to other courts where legal barriers often block a client’s efforts to successful reunification. Thus, Juvenile Defender attorneys helped DDTC clients modify child support, obtain their drivers licenses, and similar legal tasks.

The Santa Clara County Juvenile Dependency Court was designated by the Permanency Planning Department for Children Department of the National Council of Juvenile and Family Court Judges (NCJFCJ) as a Model Court. This designation meant that the dependency court agreed to try to comply with the *Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases*, a publication of best practices published by the NCJFCJ in 1995 and subsequently approved of by the California Judicial Council in Standard of Judicial Administration 5.45 (formerly SJA 25). The Model Court status has resulted in annual meetings of all such courts (there were 10 in 1997 and 33 as of 2007), site visits for courts to learn from each other about best practices, studies with published findings on court operations, and NCJFCJ staff assistance to the local court in matters involving court improvement including financial support for local trainings.

The Model Court designation has resulted in continuous efforts by the Santa Clara County Juvenile Dependency Court for court improvement. Some of the results of these efforts were:

A. Monthly meetings of representatives of all parties and interested persons in the juvenile dependency system. These Court Systems meetings have taken place regularly since 1992.

B. Monthly meetings of representatives of all parties and persons who deal with issues relating to permanency for children. Permanency Planning meetings have taken place regularly since 1998.

C. A Mission Statement agreed to by all members of the Courts Systems Committee. The Mission Statement sets out the goals and principles that everyone agrees should guide juvenile dependency court operations. Framed copies hang in the court waiting room and in each courtroom.

D. Monthly cross-trainings where all members of the dependency court system are invited to participate in trainings addressing issues that arise in the juvenile dependency court. Additionally, since 1996 the juvenile dependency court has sponsored biennial day-long conferences addressing juvenile dependency court issues, referred to as local Beyond the Bench training conferences.

E. A commitment to a “One-Judge One-Family” calendaring system. The court makes every effort for a family to start and finish their legal work before the same judicial officer.

F. Case Management improvements. Until very recently there had never been a case management system for the juvenile dependency court. The prior dependency case management system was linked to delinquency court cases. Moreover, data critical to the monitoring of juvenile dependency cases were not collected at all. Because of significant effort by court staff, the clerk's office, judicial officers, and expert assistance from Tracy Lafontaine, who worked for the court for three years pursuant to a grant from the David and Lucile Packard Foundation, the dependency court created a case management system that permits the court to track cases, determine how long cases have been in the court system, collect aggregate numbers including the number of children in the system, as well as provide dramatically improved calendaring. As a result the dependency court is now better able to measure its own progress. Additional improvements in the case management system are still necessary to address all of the issues necessary for audits.

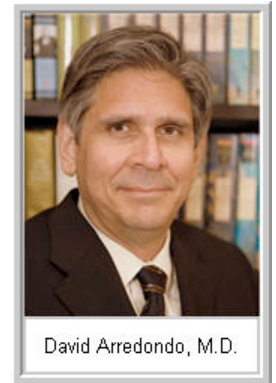
G. Members of the Dependency Court Systems Committee concluded that more intensive judicial oversight of cases coming before the court would improve outcomes for children. More frequent reviews could focus on parental participation in service plans, agency compliance with service orders, and child well-being. As a result of these discussions all court departments now schedule interim reviews of all cases. A typical case will have a 45 day interim review after the dispositional hearing in order to review implementation of the case plan and the parents' progress in substance abuse treatment. Many cases also have 90 day reviews, particularly those involving children who were under 3 years of age when removed from parental care. Other interim reviews are scheduled on an as-needed basis. At these hearings the court addresses such issues as visitation, receipt and review of psychological evaluations, placement reviews, and movement towards permanency.

Family Group Conferencing began in Santa Clara County. Judge Edwards invited a contingent from New Zealand to come to California and talk about family group conferencing, a unique approach to family problem solving developed in that country. The basic principle is that the family comes up with their own solution, if possible and feasible. The New Zealand group met with members of the Santa Clara County Board of Supervisors as well as with representatives from the dependency court and The Department. They also were featured at the statewide Beyond the Bench conference. The result was that The Department began to utilize family group conferencing as a service to families in dependency cases. With assistance of grants from the David and Lucile Packard Foundation, The Department created the Family Group Conferencing Institute in 1997 and became a leader in training other departments around the country in this innovative and effective service.

Santa Clara County was selected by the Edna McConnell Clark Foundation as one of four juvenile dependency courts to participate in a child welfare diversion project. Along with the other jurisdictions (Hamilton County, Ohio; Jefferson County, Kentucky; and Honolulu, Hawaii) the project members met for several years to develop

model programs for diverting children from the dependency system. This project helped Santa Clara County refine its mediation and family group conferencing services as well as learn from the other jurisdictions about best practices in the diversion of cases. The Santa Clara County juvenile dependency court was featured in a national publication describing this project. [*Diversions Project Matrix*, National Council of Juvenile and Family Court Judges, Reno, NV 1998.]

Dr. David Arredondo moved to Santa Clara County, began his work as Medical Director at Eastfield Ming Quong (EMQ), and began to work with the juvenile courts to improve outcomes for children. He brought with him the Solomon Project which started in 1996, a project that permitted him to give of his time and expertise to the juvenile courts. He was able to work with the juvenile delinquency court to plan and begin the nation's first Mental Health Court in 2001. He also started the Office of Child Development and Mental Health, offering free advice to judges and court systems nationally on mental health issues involving children in the juvenile court. Dr. Arredondo also consulted with juvenile dependency court leaders on the operations of the dependency drug treatment court and provided numerous trainings to professionals in the county on such issues as the impact of domestic violence on children, wraparound services, brain development, and the juvenile mental health court.



**1997-98** – The Juvenile Dependency Drug Treatment Court (DDTC) started operations. Everyone working in the juvenile dependency system realized that the majority of parents who enter juvenile dependency court have serious substance abuse problems. At Court Systems meetings, the members discussed how the dependency court could become more effective in working with substance abusing parents. In 1997, the dependency court sent a team of 10 to Washoe County (Reno), Nevada, to visit with Judge Charles McGee, who had started one of the first dependency drug treatment courts in the country. The team came back believing that this type of court would work well in Santa Clara County. Judge Edwards met with Robert Garner, Director of the Department of Alcohol and Drug Services (DADS) and with members of the Board of Supervisors to identify treatment services and to expand the available housing for recovering mothers and their children. The Court began to hear cases in 1998.

The first year of the DDTC was very slow with fewer than 10 clients. But the foundation for a successful court was put into place. Substance abuse assessments were located in the courthouse. Substantial funding from the Board of Supervisors increased housing opportunities for women by 50 beds with the creation of Rainbow Houses. In 2000 the attorneys for parents started the Mentors for Moms program using graduates from the DDTC to work with new clients.

As of 2007, there were over 60 clients in the DDTC. The parental success rates for recovery and return of their children has been over 60%. The DDTC has received numerous grants and has a wide array of local services including housing, domestic violence victim support, mental health, public health, legal (including non-dependency court legal matters), child advocacy, and employment. The Department has established a substance abuse unit of social workers supervised by Joyce McEwen Crawford that specializes in dependency cases involving substance abusing parents. The DDTC has been evaluated by local, state and federal authorities. A five year evaluation was completed in 2006. [*Family Treatment Drug Court Evaluation: Final Report*, NPC Research, Portland, OR, 2007.] It has been visited by over 50 court teams or representatives from across the country and in several foreign countries. The David and Lucile Packard Foundation funded a film about the DDTC that has been shown all over the world. It inspired the creation of the first dependency drug treatment court in London, England, inaugurated in November 2007.

All of this has led to the growth and strengthening of dependency drug courts elsewhere in California and across the country. The DDTC has been supported by The Department which has provided financial support for the assessment and housing for all parents who enter the dependency system with substance abuse problems. In 2002 the DDTC received a grant from the Substance Abuse and Mental Health Services Agency that resulted in the creation of Celebrating Families, an enriched parenting class that includes parent/child participation and child development assessments. Celebrating Families has been very successful and has been replicated in several jurisdictions around the United States and in foreign countries, including Moscow, Russia. In 2004, the DDTC expanded so that all parents entering the juvenile dependency court would have the benefit of assessment, treatment and special services. Now every parent entering the dependency system with a substance abuse problem is assessed by experts from DADS who have a representative in the court building.

**1998** - Wraparound Services were brought to the county by Eastfield-Ming Quong (EMQ), a local service provider led by Executive Director Jerome Doyle. Wraparound Services were first developed in Chicago, but have been creatively expanded by EMQ. They provide intensive support and services to children on a 24 hour-a-day basis enabling many children to remain at home instead of institutional care. These new services were embraced by The Department and by the juvenile dependency court. The use of these services has resulted in a sharp reduction in the numbers of children in institutional care. The juvenile court working with EMQ led a movement to spread the word about these services and, with the assistance of another grant from the David and Lucile Packard Foundation, produced a wraparound services video that is distributed widely.

Wraparound services were so successful that in 1999 the Board of Supervisors contracted with EMQ to find permanent placements for the most difficult to control children living at the Children's Shelter. EMQ created the Matrix program that combined wraparound services with family finding and other cutting edge interventions to work with these children in the community. The Matrix program has the capacity to work with 10 children at a time, and the success rate has been over 90%.

**2000** – Santa Clara County was selected as one of six national jurisdictions to implement the recommendations of a policy book entitled, *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice*, (NCJFCJ, Reno, NV, 1999). This endeavor to improve practice in dependency cases involving domestic violence is called The *Greenbook* Project. The intent of the project is to bring together child protective services, domestic violence advocates, and the juvenile dependency court in an effort to produce better outcomes for children and their families.

Santa Clara County got off to a fast start in its *Greenbook* implementation efforts. Another grant from the David and Lucile Packard Foundation enabled the leaders in child welfare, domestic violence advocacy, and the juvenile dependency court to meet and plan for implementation. The meetings included strong representation from law enforcement from the beginning as the other participants recognized the critical role that law enforcement plays in cases involving domestic violence. During 2000 project goals were identified and teams established to carry on *Greenbook* work. Through June of 2006, the *Greenbook* project had two full-time staff in Santa Clara County to assist in organizing and sustaining changes in the ways that each of the participants does business and how each relates to the other.

The project has resulted in remarkable changes. In the dependency courts all participants have been trained in domestic violence, and attended national, local and state conferences. Many local professionals have become experts and have become trainers. Led by Commissioner (now Judge) Shawna Schwarz, three local professionals have provided quarterly trainings to professionals throughout the community about the work of the project. Beginning in 2007, Nancy Marshall along with two full time and several part-time domestic violence advocates have provided services to victims of violence in dependency court.

Efforts began to create a protocol for children's cases that move between the dependency court and delinquency court. State law had not permitted dual jurisdiction; therefore, each court system had to choose whether a child would be a delinquent or a dependent of the court. New legislation (crafted by Judge Edwards) allowed for dual status for children. This modification of Welfare and Institutions Code section 241.1 passed in 2004. A county team made up of representatives from both juvenile court systems met for several years and produced a protocol that provides for much closer

working relations between the two courts and, in particular, between the juvenile probation department and The Department. The first complete protocol for the management of cases moving from the juvenile delinquency court to the juvenile dependency court and vice versa was completed and signed in February 2006.

The dependency court started monthly meetings to address the educational needs of foster children. These meetings were inspired by the work of Judge Read Ambler working in the juvenile delinquency court and the efforts of the Board of Supervisors to improve the educational opportunities for at-risk children, particularly in the delinquency system. Significant changes have taken place in the educational environment for foster children since these meetings (now quarterly) have started. For example, children living at the Children's Shelter now usually attend their home school, hopefully somewhat reducing the trauma of having been removed from the care of their parents. As of 2006 the school at the Children's Shelter had been reduced to fewer than 10 students. Additionally, the committee developed a protocol for the identification and appointment of educational representatives for foster children. This protocol was the basis of a model that was subsequently made state law. Because of these efforts and trainings, many of which have been sponsored by Legal Advocates for Children and Youth (LACY), all members of the dependency court system are better prepared to address the educational needs of foster children.

Also in 2000, Commissioner (now Judge) Katherine Lucero worked with Judge Stephen Manley to start a criminal/dependency drug court. In this court parents who have both criminal and dependency cases would meet with Judge Manley and coordinate treatment plans. This brought social workers and adult probation officers in direct contact with one another regarding shared cases. Attorneys from the Juvenile Defenders meet with Judge Manley once a week to coordinate cases between the two courts.



**2001** – The South County juvenile dependency calendar was started. Three juvenile court commissioners participated in this effort to make the dependency court more accessible to families living in South County. Commissioner Anna Ollinger had suggested the idea to the Juvenile Dependency Court as far back as 1995. She quietly campaigned for the South County calendar for several years, but it was not until 2001 that commissioner Katherine Lucero became the first judicial officer to conduct dependency hearings there.

When Commissioner Shawna Schwarz replaced Commissioner Lucero, she continued to hear cases in South County, noting that this was the fastest growing calendar over which she presided. In 2007, Judge Patrick Tondreau handled the South County calendar. The results of this effort have been favorably received by the public and by The Department. Clients who live in South County no longer have to

travel to San Jose to appear in dependency cases, thus increasing the Judicial Council goal of proving access to justice. The juvenile dependency court received significant assistance in this effort from court administration and from judicial colleagues in South County, particularly Judge Kenneth Shapero.

**2001** – The Gift of Reading Program started in the juvenile dependency court. Using donated books, all three courtrooms and the children’s waiting room have numerous age-appropriate books for every child who comes into the juvenile dependency court. The court, the attorneys for children, and the child advocates all encourage the children to take these books home, read them and keep them. The judicial officers and attorneys encourage parents to read to their children.

Also in 2001, Commissioner Kristine McCarthy was named the Juvenile Court Judge of the Year by the Juvenile Court Judges of California. Commissioner McCarthy was recognized for her long service on the juvenile court, her expertise in juvenile dependency law, and for training a generation of juvenile and appellate court judicial officers across California in the intricacies of juvenile law.



**2003** – The juvenile dependency court was awarded an Adoption Excellence Award by the Children’s Bureau of the federal Department of Health and Human Services for its outstanding work in adoptions. As one of only two awards given nationally in the Judicial or Child Welfare System Improvement Category, the news release from the Children’s Bureau about the dependency court was:

In 1985 with a population of 1.5 million, there were over 3,900 children under the jurisdiction of the Santa Clara Juvenile Dependency Court. Today, under the leadership of Presiding Judge Leonard Edwards, there are 2,850 children under court supervision in an overall population of 1.8 million. During this same time period adoptions have increased from less than 30 a year to over 240 a year. The keys to the court’s success have been attributed to long term planning, a commitment to change, strong judicial leadership, and the implementation and utilization of best practices.

**2004** – The San Jose State Foster Care Project was established. With help from the Philanthropic Ventures Foundation and its Executive Director Bill Somerville, the juvenile court convened a group of educators, philanthropists, and members of the court system to try to improve educational outcomes for foster youth “aging out” of the foster care system. The meetings resulted in the establishment of an annual luncheon bringing together these same people and older foster youth to explain to emancipating foster youth what scholarships and other supports are available to them. The first two meetings were held at a local restaurant, and the third meeting in September of 2005 was held on the San Jose State campus. More than 50 students attended this

luncheon and were given first hand exposure to the university. The program will be expanded to include community colleges in the years to come.

**2004** – Family Finding became established in Santa Clara County. EMQ once again provided Santa Clara County with an opportunity to take advantage of “cutting edge” services designed to help children connect with their extended families. By hiring Kevin Campbell, the national expert on Family Finding, EMQ has made it possible for The Department and the juvenile court to have access to new ways to improve outcomes for children, particularly older teens who have no immediate family to rely upon. In the years to come, we expect to have many more children connect with their extended families, particularly youth “aging out” of the dependency system. [See generally, Edwards, L., and Sagatun-Edwards, I., “The Transition to Group Decision Making in Child Protection Cases: Obtaining Better Results for Children and Families,” *Juvenile and Family Court Journal*, Vol. 58, (2007) at pp. 1-16.]

**2004** – The National Council of Juvenile and Family Court Judges completed its study of collaborative efforts by six Model Courts, including Santa Clara County. The results of the study were in an April 2004, publication entitled *Building a Better Collaboration: Facilitating Change in the Court and Child Welfare Systems*, National Council of Juvenile and Family Court Judges, Technical Assistance Bulletin, Volume VIII, Number 2, April 2004. Numerous members of the Santa Clara County Juvenile Dependency Court system were interviewed and quoted.

In May 2004, the NCJFCJ provided a Site Report specific to the Santa Clara County juvenile dependency court entitled *Facilitating Systems Change: Assessment of Collaborative Structures and Processes in Model Court Jurisdictions*. Labeled “not for dissemination,” this report was intended to provide Santa Clara County specific recommendations relating to court improvement. It followed an intensive study of the juvenile dependency court funded by the David and Lucile Packard Foundation. The report is highly complimentary of the operations of the Santa Clara County Juvenile Dependency Court particularly with regards to judicial leadership, collaboration, innovation, and the development of best practices. The evaluation included some recommendations for improvement. The recommendations are summarized:

- Develop a leadership transition plan that will include active mentoring of individuals positioned to assume leadership roles;
- Encourage and expand opportunities for individual system stakeholders to take a leadership role on specific initiatives;
- Revisit the vision for reform. Bring together multiple stakeholders in a formal, structured visioning and strategic planning process. Engage in a process of formal goal setting and prioritization. Build consensus across the system with

respect to the prioritization of reform initiatives, steps to achieve goals, and responsibility for moving forward, and

- Enhance capacity for ongoing court performance measurement and evaluation consistent with best practices and Adoption and Safe Families Act (ASFA) mandates. Explore data-sharing agreements with other systems' information systems to obtain data on performance and outcomes, including child well-being outcomes.

Additionally, in 2004, Judge Edwards received the William H. Rehnquist Award for Judicial Excellence, an award given by the National Center for State Courts to the outstanding jurist in the country for the year. It was the first time that the award had ever been given to a juvenile court judge. [Edwards' speech at the United States Supreme Court was reprinted in 3 publications: *Journal of the Center for Families, Children, & the Courts*, (Vol. 5, 2004, pp 169-180); *Juvenile and Family Court Journal* (Vol.56, Winter, 2005, pp. 45-51); *Family Court Review*, Vol. 43, No. 4, 2005, at pp 544-553].]

During 2004, the probate court, family court, and juvenile dependency court developed additional protocols regarding the management of cases that might appear in any one of the three settings. Information exchange protocols between the Probate Investigator, The Department and Family Court Services were implemented. These protocols were the product of a collaborative process led by the Probate Judge Thomas Edwards and Family Court Services Director Steve Baron.

**2005** – Howard Siegel, a long time Deputy Public Defender and more recently Supervising Attorney for the Santa Clara County Juvenile Defenders, retired. Siegel was the longest serving attorney representing parents in the history of the county, starting his juvenile dependency court service in the 1970s with the Office of the Public Defender.

**2006** – On March 1, 2006, the Presiding Judge of the San Mateo County Juvenile Court announced that San Mateo County was going to establish its own Child Advocate (CASA) office. This resulted in a separation from the Santa Clara Child Advocate program. Both counties pledged to help the other and to ensure that the children of both courts continue to be served by trained citizen volunteers.

In April 2006, the court established a Receipt of Report calendar for all statutory hearings except jurisdiction and disposition. The goal is to have social worker and child advocate reports available to attorneys and their clients 10 days before the court hearing so that they can meet with their clients, discuss the contents of the reports and adequately prepare for the hearing. This calendar will place a burden upon everyone and particularly on the clerk's office, but the value of having timely reports outweighs all else. The Receipt of Report calendar could make it possible to schedule time-

certain court hearings rather than the current practice of having all parties appear at 8:30 in the morning.

On May 4, 2006 Judge Edwards retired from the Superior Court and Judge Lucero replaced him as Supervising Judge of the juvenile dependency court. Commissioner Schwarz was appointed to the bench as a judge and she was reassigned to family court. The Superior Court decided to convert the now-open second commissioner position in dependency court to a judge position. In September 2006, Judge Patrick Tondreau was assigned to the juvenile dependency court to replace Commissioner Schwarz.

The transition of the new Supervising Judge to dependency court was successful. Judge Katherine Lucero took over in early May of 2006. She has taken over standing meetings involving Court Systems, Permanency Planning, Education of Foster Youth, the Dependency Drug Treatment Court, CASA, Model Courts, and the important relationship that Judge Edwards started with San Jose State University. She has become a member of the Joint Response Task Force of the Department of Family and Children's Services, the Children of Color Task Force, the Junior League Advisory Board, Kids in Common, and the Fetal Alcohol Advisory Task Force for the County of Santa Clara. She remains an active voting member of the Santa Clara County Domestic Violence Council's Interagency Collaboration Committee, formerly the *Greenbook* Project Oversight Committee. She also regularly attends the Santa Clara County Juvenile Justice Committee meetings and is a member of the Judicial Advisory Committee on Domestic Violence for the Superior Court.



In a separate project, Judge Lucero and Judge Richard Loftus, the Presiding Judge of the Juvenile Delinquency Court, have organized the Juvenile Education Team (JET). This project will develop an interactive website for all of the agencies that are responsible for foster youth. The goal is to ensure that all foster youth are provided with competent educational services while they remain under court supervision. The project is being supported by the Silicon Valley Children's Fund and the Santa Clara County Board of Education.

Judge Lucero has initiated the Girls Court concept in the dependency court. She asked Commissioner Kristine McCarthy to create a court calendar that focuses on female teen youth who are not in stable placements, at risk of pregnancy, or who have exhibited runaway behavior. The court will seek to assist this population succeed in placement and school, and steer them away from becoming juvenile delinquent wards.

Judge Lucero has also begun the expansion of Dependency Drug Treatment Court by asking Judge Patrick Tondreau to open up a court that focuses on babies

born exposed to drugs who are between 0 and 3 years of age. First Five of Santa Clara County has agreed to collaborate in this effort. This new court will seek to identify the vulnerable population of drug exposed babies and their mothers. The first analysis identified 110 babies in a one year period. It will provide early childhood assessments, early drug treatment interventions and help prevent a mother from having multiple drug exposed babies, which is currently the trend.

The Model Court Goals are the following: (1) Full implementation of the Step-Down Visitation Protocol; (2) Expansion of the Dependency Drug Court to include children who are 0-3 years old, and (3) full roll-out and implementation of the CASA driven Educational Advocate Project. Two site visits are already scheduled for juvenile court representatives from San Mateo County to observe the Santa Clara County Dependency Drug Court and for representatives from St. Louis County to observe and learn about our juvenile specialty courts. The St. Louis County representatives will also observe how *Greenbook* practices have changed the way that we do business in Santa Clara County.

In July 2006, longtime dependency Deputy District Attorney Aaron West became the leader of the office representing children. West was named Supervising Deputy District Attorney upon the pending retirement of Penny Blake.



Aaron West

In November 2006, the juvenile dependency court and probate court held a joint Adoption Day to recognize the nationally designated Adoption Month. Forty-six children were adopted that day. The historic calendars were scheduled at the Old Courthouse. The event was staffed by 12 volunteer judges, 58 court personnel and at least a dozen others from the Department of Family and Children's Services. Child Advocates were present to play games, hand out teddy bears and read to the children while they waited for their case to be called. The courthouse was packed with family members who had accompanied their special little ones for this long-awaited celebration. The hallways sounded like a playground instead of a solemn courthouse. Refreshments were served on every floor throughout the entire morning until every adoption was concluded and the parents were able to leave with all of their certified documents. The court clerks set up filing and copy stations on each floor right outside the courtrooms so that they could be served in a timely fashion. It was a magic celebration, and all who attended felt part of something bigger than themselves. This Adoption Day is now held annually.

**2007** - Upon becoming Supervising Judge in 2006, Judge Lucero realized that each week the number of babies born with a positive toxicology screen for methamphetamines seemed to be growing. She asked an intern to review all of the new filings for a one year period, October, 2005, to October, 2006. She discovered that 130 babies were reported to have a positive toxicology screen or a documented

exposure to controlled substances in utero. Moreover, she discovered that the mothers often had multiple children born exposed to controlled substances and that drug treatment efforts appeared to have been ineffective. Many of these mothers were having their parental rights terminated in the juvenile dependency court.

Judge Lucero took these data, as well as the fact that 80% of all new dependency petitions involved some drug or alcohol component, and approached First Five of Santa Clara County. She suggested that First Five partner with the juvenile court to begin to examine and serve what she concluded was the most vulnerable population of children and families in the county. First Five immediately became interested and formed the Substance Exposed Infant Task Force. Many child welfare stakeholders were included in the task force including the Department of Alcohol and Drug Services (DADS), Public Health and County Mental Health. Statewide data were collected to validate Judge Lucero's concerns. The task force agreed upon three goals, one being the creation of a 0-3 drug court within the juvenile dependency court system.

In the summer of 2007, the federal department of Health and Human Services announced a grant opportunity that would allow Santa Clara County to implement the Family Wellness Court, if the county was able to secure grant funding. Judge Lucero called a meeting and it was decided that Santa Clara County would apply for the largest of the awards, five million dollars over five years. Social Services Director Will Lightbourne took the lead and with First Five wrote the grant application and submitted to HHS. The Department, the Superior Court, County Mental Health, DADS, and Juvenile Defenders wrote letters of support and commitment and promised to pick up the cost of whatever systemic changes would be necessary after the five year period. In August, HHS announced that Santa Clara County had been successful and, along with the required matching funds provided by First Five, the total grant award was 6.3 million dollars. The Family Wellness Court began in 2008.

The Santa Clara County Zero to Three Dependency Drug Treatment Court Project identified four primary goals for the target population of mothers and children and one systemic change goal:

1. Early identification of and intervention for pregnant women and mothers;
2. Rapid engagement and successful retention in treatment and care;
3. Reduction in subsequent births to mothers who are abusing methamphetamines;
4. Early identification of and intervention for developmental delays, disabilities and concerns for children 0-3 whose parents come before the DDTC, and

5. The creation of a comprehensive System of Care across all systems serving children who are in or at risk of out-of-home placement as a result of parental methamphetamine and other substance abuse.

**THE DEPARTMENT** – This history would be incomplete without mention of The Department of Family and Children’s Services (The Department). The work of the juvenile dependency court is intertwined with the work of The Department. Success in the juvenile dependency court would not be possible were The Department not successful in its work.

Over the same period of time, but principally after 1992 when The Department took over full responsibility for the child protection system, it has improved operations significantly. While the intention of this history is to report the changes in the juvenile dependency court, the following changes in department operations deserve mention. Many of these changes have occurred during a period of shrinking child welfare funding:

- Reducing the Children’s Shelter daily population from over 120 to approximately 20-30.
- Reducing the number of children in out-of-home care significantly from approximately 4,000 to slightly over 2,500 while the population of the County continued to grow.
- Instituting differential service responses
- Instituting Family Group Conferencing.
- Instituting Team Decision Making in placement and other key decision points (already more than 2,000 held as of 2007).
- Working with local law enforcement to begin a joint response protocol to child abuse allegations in the field.
- Instituting Family To Family practices.
- Implementing Family Finding practice.
- Utilizing wraparound services extensively and assuming a leadership role in the state in the expansion of these services.
- Committing resources to substance abuse treatment by establishing a substance abuse unit of social workers, funding substance abuse assessments in the courthouse, and funding housing for substance abusing mothers and their children at House on the Hill.
- Supporting domestic violence advocacy in the community and in the juvenile dependency court.

- Participating fully in Court Systems and Permanency Planning meetings.
- Working closely with the juvenile court to improve educational outcomes for emancipating youth.
- Improving permanency outcomes for children including an average of over 240 adoptions every year for the past five years.
- Instituting intensive up-front services to prevent children from unnecessarily entering the juvenile dependency system.
- Building a new Children's Shelter, a model facility, completed in November of 1995.
- Opening and operating two supervised visitation centers, Clover House and Kindred Souls.
- Establishing an On Line Practice Guide.
- Participating in an innovative program, "Connected By 25," for children emancipating from the child welfare system.
- Developed two resource support teams for both birth/kin families and foster families.
- Opened and operates four family resource centers in the county.
- Participating fully in the *Greenbook* Project.
- Created a county system/implementation plan (SIP) that integrates many of the above-noted initiatives into a comprehensive service delivery plan for The Department.

The leadership of The Department has included Richard O'Neil, Sylvia Pizzini, Jim Fare, Leroy Martin, John Oppenheim, and the current Director Norma Doctor Sparks, as well as the current Director of the Social Services Agency, Will Lightbourne.

## **APPENDICES**

In order to give the reader an idea of the types of cases handled by the Juvenile Dependency Court, three stories were written about persons involved in the dependency system. In Appendix A, Barbara Bond tells her story from the perspective of a client of the court and of the Dependency Drug Treatment Court. In Appendix B, Judge Erica Yew tells about her experience as a Child Advocate, years before she was appointed to the bench. In Appendix C, Deputy District Attorney Christine Hudson writes about one of her cases and how, as attorney for a child, she advocated for her client's best interests. Some of the names and other identifying information about these cases have been changed. Appendix D is the Mission Statement of the Dependency Court.

### **Appendix A**

#### **A Mother's Story**

Barbara Bond

My name is Barbara Bond and I am forty-four years old. I have two beautiful girls, Andrea who is now twenty-one and Angelica who is ten. Before coming into the Juvenile Dependency Court System, I had a fifteen year drug habit. My drug of choice was methamphetamine, but I would use anything to fill the empty void. When I was pulled into the system I was extremely angry. Not only at the removal of my children, but at myself as well. I felt like a complete failure; not only as a mother, but also as a human being. I blamed everyone else and refused to take any responsibility for my actions.

I was arrested in 1998 for being under the influence and for possession of a controlled substance; I had meth in my pocket. My youngest daughter Angelica, who was 16 months at the time, was taken by the police to the children's shelter. I was released on bail and tried to get her back, but they refused to return her and told me to call the investigator assigned to the case. The investigator was very helpful and even took me to the first court hearing where I was assigned an attorney from Dependency Legal Services. I was told I could no longer live at my mother's while my daughters were there. So my husband and I rented a room from his father. I had to participate in parenting classes, outpatient treatment and drug testing. My programs were a full time job in themselves. I attended counseling on my own and began taking Prozac for depression. At first, the whole process was so overwhelming I felt like giving up. The only reason I didn't was because I desperately wanted my children back and knew I had to deal with my addiction, or I wouldn't be able to live with myself knowing what I had done to my girls.

I was already six months into my program when the patch I was wearing to detect drugs fell off and my social worker thought I purposely removed this patch to get high. I was going to get my girls back at six months, but after that I was told the only chance I had was to apply and successfully complete Drug Treatment Court with Judge Edwards, which was a voluntarily nine month program. The program was just starting and I wasn't sure I wanted to do it, so I kept missing appointments with my attorney Gary Proctor. I felt if I didn't show up it would go away - an addict's way of thinking. I was upset with Mr. Proctor because he dared tell me I had to decide whether I wanted my children back or not. If I did, he said I had to get into Drug Court, which was my last alternative. That's when reality set in and I knew I had to do something even though I was furious, because it meant I had to go to a sober living environment (SLE) with women and children and leave my husband. As a sober living resident, I had household chores, attended NA and house meetings, and still do my court ordered program.

After ninety days, I left and returned home to my husband. I was finally coming out of the fog of addiction when I entered Drug Dependency Treatment Court and realized this was the best thing that ever happened to me. Drug Court enabled me to get back both my girls and my life. The

encouragement I got made me feel like a real human being. They weren't up on pedestals, and I began to believe that they actually wanted me to succeed. I even began liking my social worker. I actually enjoyed going to court, because it made me feel good about myself. It took me fifteen months to finish the program. I can't even describe the feelings I had when Judge Edwards returned my girls to me. I was so happy and proud that I was finally living a productive life. I never felt the fear some people experience on getting their children back, because I knew I wouldn't fail. I made a conscious decision never to use again since it would put my girls at risk again and I could lose them permanently. I didn't experience triggers (which is anything that makes you want to use) including dreams, flashbacks, talking about drugs or being around others who use. I had a strong support system and I am forever grateful to my husband and my family for their support.

Judge Edwards to this day continues to be a part of our lives. His support has even extended to performing the ceremony when my husband and I were married in December 2000. The fact that I could stand in the same courtroom to get married as I did when my children were removed, shows not only how much I've changed and matured, but it is also a statement of my absolute respect and admiration for Judge Edwards. Gary Proctor also remained a part of our family life, because of his continuing support. He has shown his trust by not using my past against me and by giving me a job when others might not have been willing to take the chance. I am proud of what I've done in such a short time, even though it seemed like a lifetime while I was doing it. Not only am I the first graduate of this new court, in December 1999, but also the first mentor when Mr. Proctor hired me in February 2000. I often say mimicking the hair commercial, that I was not only a client, but am also the "president."

Being a mentor has given me the opportunity to come back to court, not as a client, but as a means to help other mothers who are also going through the system. Being able to mentor other women has made me feel needed, adding purpose to my life and enabling me to give back to the community that once helped me. I have been clean and sober now for nine and half years and am continuing to improve my life. One thing I learned from this experience is that with the right people in your life, providing you with the time and the programs needed, you can make a positive change.

I have been a mentor now for eight years. I provide clients with a realistic picture of what Dependency Court is all about. I explain the process and what lies ahead. I do this from the perspective of a person who has felt the same fears and faced the same demons. When clients talk to someone who has been there, a connection is established. When we, as recovering addicts explain drug court, clients are more inclined to put aside their anger and denial and listen. This is also makes them more willing to do services. The drug court team gave me the strength to get my life back. As my daughter described it, drug court isn't so much about mothers getting their children back as it is about children getting their mothers back.

## **Appendix B**

### **My Experience as a Child Advocate in Dependency Court**

Erica Yew ©2008

Prior to joining the bench, I was a Child Advocate from 1991 to 2001. During that time, I represented three children through the Court Appointed Special Advocates ("CASA") program and I served on the board for this organization. When I was appointed to the bench in October 2001, the Judicial Canon of Ethics required that I resign as an advocate.

Each of my three advocate children are wonderful people. Each has a compelling story, but I would like to discuss the one who has made me a grandmother. One of my girls was Nigerian-American and I will call her Akanke. (While this is not her real name, Akanke is a Nigerian name that means "to know her is to love her" and it fits here.) I am telling Akanke's story with her permission.

I first met Akanke when she was 12 years old. She had been born in New York but raised in Nigeria. She spoke English as well as Yoruba. She and her family were living in San Jose when Akanke became a dependent child. Her 11 year old sister, Jumoke (also not her real name, but meaning “beloved one”), had written a journal which was required by one of her classes. In the journal, Jumoke disclosed that she had been abused by the man she believed to be her father. The teacher reported the abuse to CPS and the girls were removed from their home. Their mother denied the abuse and through a long and circuitous case, it came to light that the man the girls had been told was their father was, instead, their stepfather. They had long had memories of another man whom they believed was their father, but their mother told the girls that no such man existed, she invalidated their beliefs, she maligned them as crazies, and she assured them that this man was indeed their father.

Since the mother had a toddler with this man, and since that child was a boy, their mother chose to stay loyal to her husband. Nigerians traditionally value their sons much more than their daughters. The girls’ mother blamed them for bringing the family into court. She rejected the girls, their report of abuse, and their hopes to be reunited as a family. During one court hearing, the girls each brought little gifts for their now pregnant mother – she was expecting another boy. Jumoke’s gift was an afghan that she crocheted herself. Akanke’s gift was a baby outfit that she purchased after saving what meager sums she could collect in the Children’s Shelter. The girls, knowing their mother – and I believe that children are experts on their parents – were afraid to give the gifts directly to their mother. They asked their social worker to convey the presents. Their mother rejected the gifts as she had rejected the girls. When the worker returned, still holding the girls’ tokens of love and remorse, she confided in me that in all her years as a social worker, she had never seen a more pathologically cold mother.

As the girls’ mother did not want them, and since the girls did not know the identity of their biological father, the court set about establishing a permanent plan for the children. During the years, Akanke was in seven different foster placements. In between each placement, she was detained in the Children’s Shelter. Each time, there were disappointments, she lost contact with friends, and her education was disrupted. With each move, Akanke’s personal possessions and mementos were lost or broken until there was nothing left. One foster parent threw what she could in a plastic trash bag and dumped it and Akanke in the shelter before driving away. During this period, Akanke was at times suicidal.

Since Akanke had been abandoned by her mother and since she was entering her teen years, she was not always pleasant and her demeanor was sullen at best. Our early years together were frustrating for me. I felt we were not connecting, I didn’t know how I could help, and I often left our visits feeling used. Akanke got into fights, ran away from foster homes, and pushed other boundaries. I called my advocate supervisor at night or on the weekends to ask for advice dealing with each new crisis. Although Akanke and I didn’t know it, she was testing me. After a year, she started to open up. After a couple of years, we knew that we loved one another. During the hardest of times, my mother (advocating for me) encouraged me to resign. Fortunately, I had a wonderful advisor, Nora Manchester, who had co-founded Child Advocates with Judge Leonard Edwards. Nora gently guided me with the over-arching mission that once we commit to a child, we cannot abandon him or her. Indeed, advocates are trained that dependent children have been rejected or abandoned by nearly all adults in their young lives and that advocates must not become yet another adult who gives up on the child.

Akanke’s case lasted until she was 18 years old. She never had a successful foster placement. She ended up on the couch of a friend after her friend’s parents took Akanke into their home. There were other ups and downs related to finding a man whom Akanke thought was her biological father, only to learn that he was Jumoke’s father, but not hers. Her mother having

abandoned her, and never learning the true identity of her father, Akanke felt alone and orphaned. Akanke was also separated from her sister who was placed in a group home.

I saw Akanke nearly every weekend, driving to her various placements in San Jose, San Martin and Gilroy. After a number of years, and through Akanke's great personal strength and concentration, she was able to graduate from high school with strong grades. She garnered a college scholarship, which was embezzled before she could start school. I helped to pay her college tuition. Akanke, the precise genetic replica of her mother, moved across the country to New York to be with extended, non-related "family." They treated her shabbily – and often times cruelly – since they did not like her mother. Their unkindness wounded her and dashed Akanke's hope of finding a family. She was at times despondent, but she pushed herself to complete college.

After years of wanting to be a doctor, Akanke started to show interest in law school. Since she could not decide between the two careers, she took *both* the MCAT and the LSAT. She was accepted into three medical schools and six law schools. After some soul-searching, Akanke decided to attend law school. There were other ups and downs with the extended "family" in New York, dramatic spats with her sister, financial woes, the flooding of her car, a fire in her apartment building that killed her neighbor, and Life in general, but through it all, Akanke was always able to re-group and focus on her studies and her future.

At present, Akanke is 27 year old lawyer in New York, having passed one of the two most difficult bar exams in the nation. One of my fondest memories is of Akanke calling to tell me that she passed the bar. She left me a message on my cell phone while she was running, out of breath and screaming. I couldn't quite understand her words and I was alarmed. I had, during the years, received numerous calls from Akanke when she was crying or in trouble. Visions of Akanke running from an attack leapt to mind. I called her back immediately, but could not make contact. I then called my husband, Tom, because I was really worried. He had just hung up with Akanke who called him when she could not reach me. Her screaming was the cry of euphoria. She was running to get to a computer to make sure the bar results were real – she had passed the bar!

Today, Akanke is married to a man who knows her history and who loves her with admiration. Akanke gave birth to a beautiful baby in July 2007. She is completely bonded with her child and is a loving and mature mother. I was in New York with Akanke when she brought her infant home from the hospital. Akanke and her husband call me "Grandma Erica." To my delight, she emails dozens of pictures of her new family every month or two. Recently, Akanke told me that she is so very happy and that she doesn't think anyone deserves such happiness. Having witnessed all the ups and downs – and it was primarily downs from ages 12 to 25 – I know that no one deserves to be happier than Akanke.

A few years ago, I was telling Akanke (as I often do) how very proud of her I am. She tried to lay her successes at my doorstep, thanking me, and I refused to take the credit. I know that Akanke is responsible for the hard work and grit that propelled her beyond the circumstances left to her by her mother. I told Akanke that she was solely responsible for her extraordinary achievements. After much back and forth, Akanke said, "Please, Erica, everyone needs someone to believe in them. For me, that was you. When you say that I did it on my own, you take that away from me." Akanke was insightful and right. Every child needs someone to believe in them, to stick by them, to value them. That is what Child Advocates provides for our system's children.

As an advocate through the years, I appeared before Judge Leonard Edwards, Commissioner Anna Ollinger, Commissioner Kristine McCarthy, and former Commissioner Katherine Lucero who is now the Supervising Judge of the Juvenile Dependency Court. I started sitting as a judge in Dependency Court on October 1, 2007 and – even though I still have a *lot* to learn – it feels like I am now where my heart is.

## Appendix C

### In the Best Interest of Children

Christine Hudson – Office of the District Attorney

After years of living a life of chaos, neglect, fear, shame, and extreme lack, 12 year old Robert was adopted by the family he had lived with for the past 4 years. At the adoption ceremony his entire new family was present, which included his parents, his 2 siblings, one of whom was his biological sister, Gracie, and both sets of grandparents. His sister was adopted by this same family on the same day. I was also there. I was Robert's attorney. When the judge asked Robert if he wanted to say something, Robert looked at the judge and proudly said, "now I don't have a hole in my heart anymore. Now I have a family."

The road to this happy ending was not an easy one. There were many, many obstacles ...from the biological mother, the Department of Family and Children Services, the law, and even the courts. But this is a case where an attorney for a child in the Dependency system did make a difference for the child and was able to advocate and work for the right result for the entire family.

Robert became a dependent child for the first time when he was 4 years old. His mother, Kelly, was 20 years old at the time. She had been using methamphetamine since she was 13 years old. She wasn't sure who Robert's father was. Kelly and Robert were living in a motel. By cleaning rooms at the motel Kelly earned enough money to pay for her daily use of meth and to buy the bare necessities. She had a boyfriend who was abusive. The boyfriend hit Kelly, and he hit Robert. One day when he was high on meth, the boyfriend hit Robert with a shoe. It knocked his front tooth out. That same night, Kelly and her boyfriend got high and left Robert alone in the motel. Robert cried alone in the room for hours before the police arrived. He was taken to the children's shelter and then moved into the home of Robin and Don.

Robert thrived with Robin and Don. He gained weight, went to pre-school and was happy. At the end of 12 months, the recommendation was to return Robert to the custody of his mother. His mother had been clean for 8 months. She completed a drug program, had a job and found an apartment where she and Robert would live. Although he was just 5 years old, Robert was able to tell me with great certainty that he wanted to live with Robin and Don forever. He felt safe with them, but when he visited his mom for overnights, he didn't sleep well and would become scared that things would go back to the way they were. Robert had been diagnosed with Post Traumatic Stress Disorder and was in therapy. Based on what my client was telling me, I decided to set a mediation on Robert's behalf. It was a very successful mediation, and it was agreed by the parties that Robert would stay with Robin and Don for 6 more months while Robert and his mother participated in family therapy. The therapist would work to improve Robert's relationship with his mother and on the issues of trust.

At 18 months, Robert did reunify with his mother. He was sad to leave the home of Robin and Don, but told me he decided he wanted to live with his mother. Six months later, the social worker recommended the case be dismissed. Robert was in school, therapy had been terminated, and the family looked good. The only concern was that she had stopped drug testing. I argued against dismissal, and asked that the case be kept open for at least 3 more months to see if Kelly could be consistent in her drug testing. The judge dismissed the case against my objections.

Two months later, Robert's mother moved her new boyfriend into their apartment. The boyfriend used drugs. Kelly later admitted that she started using again, 2 months after Robert was

returned to her care. For two months, they were homeless and lived in a car. Robert rarely went to school, and when he did he was ashamed he couldn't keep up in class. Robert had trouble sleeping and was angry most all of the time. Also, during that time, his mother was arrested twice. Both times, his mother's current boyfriend took care of him while she was in jail. He had no friends, was hungry all the time, and sometimes thought about killing himself.

When Robert was 8 years old, he was living with his mother in a cargo trailer. One day, the police came and took him back to the Children's Shelter. His mother had been arrested again for being under the influence of drugs. The petition filed in court alleged that Robert and his mother were living in an environment that was hazardous to their safety and well-being. The police found a large amount of pornographic videos, pictures, and sex toys in the cargo trailer. They also found meth that was easily assessable to Robert. Kelly's current boyfriend was physically abusive. Robert had not been to school in 4 months. He had 2 infected teeth and an eye infection when he was taken to the shelter.

He was placed again with Robin and Don, his previous foster parents. Biological mother Kelly was once again given the opportunity to reunify with Robert. I was appointed to represent Robert for the second time. At the detention hearing, the mother reported in court that she was pregnant.

At the 6-month review, Kelly was not drug testing. Robert was back in therapy. He was having night terrors and trouble sleeping. He refused to visit his mother most of the time. By the time of the interim review at 9 months, Kelly had her baby. The baby's name was Gracie, and she was also made a dependent child of the court. She was born positive for meth. She was placed with Robert in the home of Robin and Don. Robert was so happy to have his sister live with him. He and Gracie became inseparable.

Robert reported that he "loved" his foster home. He said he wanted to live there until he was an adult. He said he wanted to be adopted by Robin and Don, and that he had heard them talking about adopting Gracie.

One day Robert called me. He was upset and his voice was trembling. He said that he had just come home from school, and was told by his social worker that worked for the Foster Family Agency, that he and Gracie were going to be removed from the home at 5:00 pm. He was told to have his belongings packed! He was scared and clearly traumatized. I spoke to Robin, the foster mom. She also was traumatized and was simply shocked. The DFCS social worker supported the placement with Robin and Don. Unfortunately, she was now on vacation and unable to be reached. I then called the social worker with the FFA. He told me there were several urgent concerns. He claimed that there was a wide disparity between the foster parent's treatment of their birth child and the foster children in the home. While the biological children got a computer for Christmas, Robert got socks. Additionally, when the foster children were given an Ipod it came with the condition that they had to do additional chores in order to use it. The FFA social worker was very concerned about the "vindictiveness" of the foster mother, but could not give one specific instance to support the allegation.

I then spoke to the DFCS social worker's supervisor. She indicated that it was true that the Department had not done an independent investigation yet, but based on what the FFA social worker had reported, they felt the children were being emotionally abused in this home. I reminded her of how many years these children had been in the home, how glowing the assigned social worker's report was, how my investigator had just been in the home one day earlier, and how in my opinion telling Robert he was going to be removed today was the only emotional abuse I was aware of. She did not back down. I felt at that point that the only thing to do was to see if I could get the case on

calendar for an emergency hearing on the issue of removal. When I noticed the Department of this hearing, they finally agreed to not remove the children until they could look into things further. They did however ask me to send a letter to them stating that I agreed that the children could remain in the home despite the "emotional abuse." I declined to write the letter. Instead, I simply wrote a letter relating the facts as I knew them, and indicating I took responsibility for keeping the children in the home.

I told Robert and the foster parents to notify me if there were any more discussions about removing the children from this home. Two weeks later, the assigned social worker returned from her trip. She called to inform me that after a full investigation, it was determined that the FFA social worker had simply based his accusations on another disgruntled foster child's statements. That child had since been moved to another foster home. If it had not been for the fact that these children had an attorney who advocated and intervened on their behalf, they would have had to go through the additional trauma of being moved from the family they loved and possibly separated from each other.

By the time of the 12-month review on Robert's case, he had started visiting his mother about one time a month. In order to help make the visits go better, the foster parents had agreed to supervise the visits. They usually visited at a park. They even invited the mother to their home for Robert's birthday. The foster parents and the mother seemed to work well together. Robert wanted to live with Robin and Don, and have visits with his biological mother.

At the hearing on the 12-month review, Kelly objected to allowing the adoption of Robert. After a mediation took place, the mother not only agreed to allow her services to be terminated, but agreed that he could be adopted as long as she was allowed to remain a part of Robert's life. The foster parents assured the mother she could always have a relationship with Robert. It was also discussed at this mediation that when the 6 month review came up for Gracie, that she too could be adopted by Robin and Don. Everyone, including the social worker agreed that this was what would be best for both children.

However, after reunification services were terminated for Gracie, a tragic event happened. The biological father, who had disappeared months earlier, was killed in a drug related robbery. When this happened, his parents decided that Gracie needed to be adopted by their family. They persuaded a distant cousin who never met Gracie to ask to have Gracie placed with them. They assured the Department that they would maintain regular visits with Robert if this placement were allowed. At the 366.26 hearing, parental rights were terminated for Gracie's parents. The social worker recommended that Gracie remain with her current foster-adopt parents and not be moved to the cousin's home.

Two weeks later, I was told that the social worker had changed her recommendation, and the plan was now to transition Gracie to the cousin's house in another county. I immediately placed the case on the court calendar to try and stop this change in placement. The court denied my request for a hearing on the issue of change of placement, stating that I needed to show an abuse of discretion, and indicated I had not done that. My next tactic was to ask for a bonding study and evaluation on whether it would be detrimental to Gracie and Robert to move them from their current placement. This request was granted. I also was able to successfully argue that the visits with the cousin were just "visits" and not a transition to the cousin's home. It was a very stressful time for Gracie, Robert, and the family. The children's mother also did not support the move to the cousin's home. She wanted her children to be together with Robin and Don. But of course, her parental rights had been terminated.

The evaluation was completed, and not only did it not support a change of placement, but it went on to say that moving Gracie to a new placement after being in one home for one year would definitely cause her detriment. The evaluator even went on to say that the department was abusive by sending her alone to visit the cousin. The cousin confided in the evaluator that she already had three children of her own and really didn't want another, but felt pressured by the paternal grandmother to take Gracie. The paternal grandmother had never requested a visit with Gracie nor wanted to be a placement.

Needless to say, the DFCS changed their recommendation and recommended Gracie and Robert remained together in the only home that brought them love, stability, and permanence. They were both adopted by Robin and Don. They are growing up into wonderful children. I receive pictures of them every Christmas. They tell me that they see their mother on a regular basis, several times a year and especially during the holidays. One of the photos included the mother. If it had not been for the fact that these children had an attorney who advocated for their rights and their best interest, there would have defiantly been a different result. This is a case where I know I was able to make a difference in these children's lives.

## **Appendix D**

### **JUVENILE DEPENDENCY COURT COUNTY OF SANTA CLARA**

#### **MISSION STATEMENT**

The mission of the Juvenile Dependency Court of the County of Santa Clara is to protect children, preserve families and provide permanency for children while treating all with dignity, respecting diversity, and valuing each child as our own.

*Cover photo courtesy of Cafepress at [cafepress.com](http://cafepress.com). The child in the photo has never been a dependent of the court.*