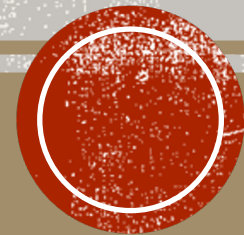


# WHAT TO EXPECT WHEN WE DISAGREE

But More Importantly, Why?

Brett Ballew



# PAST TITLES OF THIS PRESENTATION

- Why Does the Parents Attorney Do That
- What Do Parents Attorneys Have to Do with the Best Interest of Children
- Pain in the Rump or Just Doing Their Job (Activity)

Why does the OPD Counsel have to be such a rude pain in the rump?



# LET'S CHAT ABOUT:

- Why are you a child advocate or otherwise involved in the child welfare system?



# LET'S CHAT ABOUT:

- In one word, describe your interactions with parents attorneys in your counties.







# **WE STAND FOR**

**TRUTH JUSTICE AND FAIRNESS  
THE PRESUMPTION OF INNOCENCE  
CLIENT-CENTERED JUSTICE SYSTEMS  
SAFEGUARDS AGAINST THE ABUSE OF POWER  
POOR PEOPLE AND OPPRESSED COMMUNITIES  
THE CONSTITUTION AND THE BILL OF RIGHTS  
INHERENT DIGNITY OF EVERY PERSON  
OPPORTUNITIES FOR SUCCESS  
THE END OF RACISM HOPE**

# **STAND WITH US**



**“SO YOU WANT TO BE A PUBLIC DEFENDER? DON'T DO IT FOR THE MONEY, THERE ISN'T ENOUGH. DON'T DO IT FOR PRESTIGE, YOU WON'T GET ANY. DON'T DO IT FOR THE THRILL OF VICTORY, VICTORY RARELY COMES. DO IT FOR LOVE. DO IT FOR JUSTICE. DO IT FOR SELF-RESPECT. DO IT FOR THE SATISFACTION OF KNOWING YOU ARE SERVING OTHERS, DEFENDING THE CONSTITUTION, LIVING YOUR IDEALS.” CAROL A. BROOK**

## **PUBLIC DEFENSE VALUES**

I am a public defender.

That isn't a job description.

That is my identity.

-Melody Dernocoeur  
Memphis Public Defender







# NATIONAL PUBLIC DEFENSE WEEK

THURSDAY, MARCH 16: ENSURE JUSTICE FOR CHILDREN

DIGNITY · JUSTICE · HOPE



**WE FIGHT FOR FAIRNESS, JUSTICE, DIGNITY & REDEMPTION**  
WE ARE A VOICE FOR THE VOICELESS, AN ADVOCATE FOR THE POOR & DEFENDERS OF OUR COMMUNITY  
**WE ARE PUBLIC DEFENDERS**



Orleans Public Defenders

[www.opdla.org](http://www.opdla.org) | New Orleans | [recruit@opdla.org](mailto:recruit@opdla.org)

# LET'S CHAT ABOUT:

- If you had to hire a lawyer, what qualities would you look for?





# COLLABORATIVE AND ADVERSARIAL



# WHAT DOES LAW SCHOOL TRAIN LAWYERS TO DO?

- Law schools have long focused on training students how to “think like a lawyer.” Their curricula were designed to: (1) hone critical thinking; (2) teach doctrinal law using the Socratic method; (3) provide “legal” writing techniques and fluency in the “language of law”; (4) advance oral advocacy and presentation skills; (4) encourage risk-aversion and mistake avoidance; (5) refine issue identification and “what ifs;” and (6) teach legal ethics. Practice skills were usually acquired post-graduation/ licensure by client-subsidized on-the-job-training.
  - <https://www.forbes.com/sites/markcohen1/2018/11/19/what-are-law-schools-training-students-for/#679d2b3e64f2>
- This means we know how to hold others accountable for following the law or protecting our clients when others accuse them of not following the law.
- For a public defender, that fits into our identity of standing up to or protecting our clients from state power



# POLL: WHO HAS THE MOST POWER IN THE COURTROOM?

- Parents
- Parents Attorney
- DCYF Social Worker
- Child Advocate
- Child
- Child's Attorney
- Judge
- Assistant Attorney General





# POLL: WHO HAS THE MOST POWER OUTSIDE THE COURTROOM (COLLABORATIVE SPACE)?

- Parents
- Parents Attorney
- DCYF Social Worker
- Child Advocate
- Child
- Child's Attorney
- Judge
- Assistant Attorney General



# POLL: START TO FINISH, DCYF FOLLOWS THE LAW AND THEIR POLICIES IN EVERY CHILD WELFARE CASE?

- Always
- Almost Always
- Sometimes
- Almost Never
- Never



# ROLE OF THE PARENT'S ATTORNEY

*Attorney's duties and responsibilities described in Rules of Professional Conduct (RPC)*

“Representative of the client”

- Advisor- provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications;
- Advocate- conscientiously and ardently asserts the clients position under the rules of the adversary system; and
- Negotiator- seeks a result advantageous to the client but consistent with honest dealings with others.





# ROLE OF THE PARENT'S ATTORNEY

- **Specific Duties to Client:**
- **Client Directed Representation-** an attorney must abide by a client's decisions concerning the objectives of representation
- **Confidentiality-** an attorney shall not reveal information relating to the representation of a client unless the client gives informed consent
- **Render Candid Advice-**in addition to the law, such advice can be moral, economic, social or political in nature
- **Client with Diminished Capacity-** as far as reasonably possible, an attorney must maintain a normal client-lawyer relationship with the client



# ADVOCACY FOR SERVICES AND VISITATION

- Advocacy occurs at every stage of the proceeding
- Emphasis on early engagement
- Right to remedial services
- Coordination of services
- Involvement in developing service plan
- Removing barriers to services
- Visits are the right of the family
- Visits cannot be limited as a sanction
- Visits should meet the developmental needs of the child
- Amount of visitation ordered is indicative of the commitment to reunification
- Visits are good for children even when reunification is not possible
- Sibling visits
- Address Barriers to visits



# RUDE OR DOING THEIR JOB?

- The parent is asking that the child be transitioned home. CASA gives an oral report to the court at a review hearing. The CASA did not get a chance to see the child prior to the hearing because the child is placed out of county and not much has happened. She did talk to the foster parent on the phone who said the child was doing fine. The CASA's opinion is that the child should not be transitioned home at this time because she is worried about the parents stability. The parents attorney spends a great deal of time arguing that the CASA has done a terrible job investigating this case and tells the judge that the CASA is incompetent.





**YOUR TURN: PUT YOUR  
QUESTIONS IN THE  
CHAT**



# RUDE OR DOING THEIR JOB?

- There is a FTDM to plan the return of a child to her mother. The mother had satisfactorily completed all services. The meeting begins with a reminder for why the child was placed into care. The social worker reads from the petition and mentions all of the horrible things that brought the child into care. Mom's attorney's face keeps getting redder and redder as the social worker details every last bit of mom's history. Finally, the attorney stands up and shouts, "THERE IS A REASON THEY CALL YOU THE BABY SNATCHERS! I AM TIRED OF YOU ALL RUBBING MY CLIENTS NOSES IN EVERY BAD THING THEY HAVE EVER DONE!" He storms out with his client.



# RUDE OR DOING THEIR JOB?

- A Native American child is placed with white foster parents. After two years, the parent does not make any progress in services. The child is doing very well in the foster home and the foster parents want to adopt. You feel that this is the best placement for this child. A Native American relative is identified late in the process and the parent wants placement with that relative. You testify at the hearing and the parent's attorney questions you aggressively about your income level, your education, your family status and upbringing, and whether you lack cultural sensitivity or are biased against Native Americans in some way. During argument, they say your white privilege has clearly clouded your judgment.

