

Reasonable Efforts to Reunify: What Does that Mean When a Parent is Incarcerated?

MEGAN HASSEN, JUVENILE LAW AND POLICY COUNSEL
MICHAEL LIVINGSTON, MARION COUNTY CRB
MOLLY JOHNSON, MARION COUNTY CRB FIELD MANAGER

MAY 20, 2017

Introduction

- Oregon policy regarding reunification
- Child centered considerations



Children of Incarcerated Parents

2016 Snake River Kids Day Camp

Overview

LEARNING OBJECTIVES

- Understanding the legal requirements
- Overcoming barriers to services
- Establishing minimum expectations for reasonable efforts findings

EXERCISE

Reasonable Efforts to Reunify: Statutory Requirements

- **CRB Findings: ORS 419A.116**
 - CRB Finding #1, Prior to removal: whether reasonable efforts were made prior to the placement, to prevent or eliminate the need for removal of the child or ward from the home.
 - CRB Finding #4, After removal: if the case plan is to reunify the family, whether the DHS has made reasonable efforts, or if ICWA applies, active efforts to make it possible for the child or ward to safely return home.



Statutory Requirements

- **Reunification plan:**
 - Must have a rational relationship to the jurisdictional requirements. ORS 419B.343(1)(a)
 - Must provide appropriate services to allow the parent the opportunity to adjust the parent's circumstances, conduct or conditions to make it possible for the ward to safely return home within a reasonable time. ORS 419B.343(2)(a)



Reasonable Efforts to Reunify: Case Law

- **Initial Considerations:**

- **Fact dependent:**
 - ✦ Reasonableness depends on circumstances of each case.
- **Efforts must be made for each parent.**
- **Time considerations:**
 - ✦ Efforts are judged over the life of the case, with an emphasis on the period before the hearing sufficient to afford a good opportunity to assess parental progress.



Case Law: Fair Opportunity

- Reunification efforts are reasonable only if DHS has given a parent a fair opportunity to demonstrate the ability to adjust his or her behavior and act as a minimally adequate parent.
- DHS is not excused from making reasonable efforts because a parent is incarcerated.



Case Law: Parent's Conduct

- **Parent's Conduct**

- When assessing DHS efforts, the juvenile court may consider the length and circumstances of a parent's incarceration and *evidence specifically tied to the parent's willingness and ability to participate in services.*
- A parent's resistance to DHS efforts does not categorically excuse DHS from making meaningful efforts toward that parent.
 - ✦ **Examples involving incarcerated parents:**
 - *Dept. of Human Services v. S.M.H.*, [283 Or App 295 \(2017\)](#)
 - *Dept. of Human Services v. C.L.H.*, [283 Or App 313 \(2017\)](#)

Case Law: Cost-Benefit Analysis

- **When a parent argues that DHS has failed to make specific efforts, the court must consider the totality of the circumstances:**
 - Burdens that the state would shoulder in providing services, versus
 - Benefit that might reasonably be expected to flow from that service.
 - ✦ Court should consider extent to which the service was capable of ameliorating the jurisdictional bases and whether it would provide the parent with the opportunity to demonstrate improvement.



Case Law: Specific Programming

- *Dept. of Human Services v. C.L.H.*, [283 Or App 313 \(2017\)](#)
 - DHS did not:
 - ✦ Contact father or prison counselor for six months
 - ✦ Assess the adequacy of the programs in prison
 - ✦ Provide visits
 - ✦ Facilitate training for father related to his child's special needs
 - The fact that providing the services at issue would not affect the length of father's incarceration or ultimately assure that the child could be safely placed in father's care was immaterial to the cost-benefit analysis.

Visitation and Contact

- “The child * * *, a parent or legal guardian, and each sibling have the right to visit each other while the child * * * is in substitute care * * * [and] a right to visit as often as reasonably necessary to develop and enhance their attachment to each other.” OAR 413-070-0830(1).
- “When Department resources alone cannot meet the family contact and visitation needs of the child * * *, the caseworker must solicit help from family and community resources.” OAR 413-070-0830(3).
- Providing visitation is part of DHS's reasonable efforts to reunify the family

Visitation and Contact (continued)

- **Ongoing Visit and Contact Plan**

- **Must:**

- ✦ provide visits so that the type, time of day, frequency, length and location of visits maximize contact, support safety plan and support the permanency plan.
 - ✦ meet the unique needs of the child.
 - ✦ provide additional contact such as telephone calls, e-mails and letters.
 - ✦ address barriers to visitation.
 - ✦ when supervision is necessary, the plan must state the reason for the supervision.

Video

[What is incarceration?](#)

CRB Experience

- **Think about a case that you reviewed involving an incarcerated parent:**
 - What did you struggle with?



Review Day and Finding #4

WHAT TO INQUIRE WHEN A PARENT IS INCARCERATED

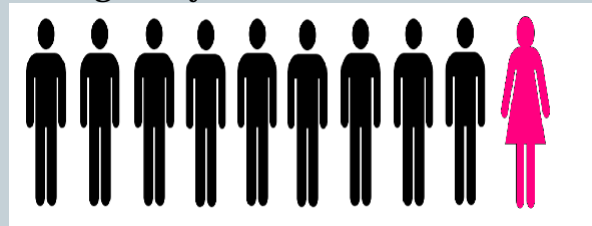
**SERVICES
PARENT ENGAGEMENT
LOGISTICAL CONSIDERATIONS**

Finding #4

- Was the parent notified of the review today?
- When did DHS make the first contact with the parent? Is the contact made monthly?
- Has DHS included the parent in developing the case plan, reviewing the Action Agreement, completing ICWA verification and Relative Information?
- Is there a written Visit and Contact Plan? Other forms of communication?
- Has DHS contacted the prison counselor to assess services available through the facility or facilitated services with outside providers?

What Services Are Available at Coffee Creek Correctional Facility

Family Advocate - Early Head Start - Baby Bonding
Pregnancy Services - Girl Scouts



Services for Incarcerated Fathers

“Father is incarcerated with no available services.
Appropriate referrals will be made once he is released.”



Encouraging Programs to strengthen relationships between children and their incarcerated fathers

- Family First – Oregon State Corrections
- Dads For Life Camp – Snake River Corrections
- Dads For Life Support Group – Snake River Corrections
- Enhanced Visits-Weekly Family Visits – Snake River Corrections
- Kids Camp – Snake River Corrections
- Summer Barbeque – Powder River Corrections

Parenting Inside Out

- Parenting Inside Out is a priority for DHS parents and the curriculum is offered at all but 4 corrections facilities.



- Parenting Inside Out is an evidence based parenting program through Pathfinders developed by the Oregon Social Learning Center and the Oregon Department of Corrections specifically for incarcerated parents. The program has been offered in Oregon's prisons for ten years.

Technology

- Video Interactive Phone Calls
- Email
- Phone calls for professional and child/family visits



Video



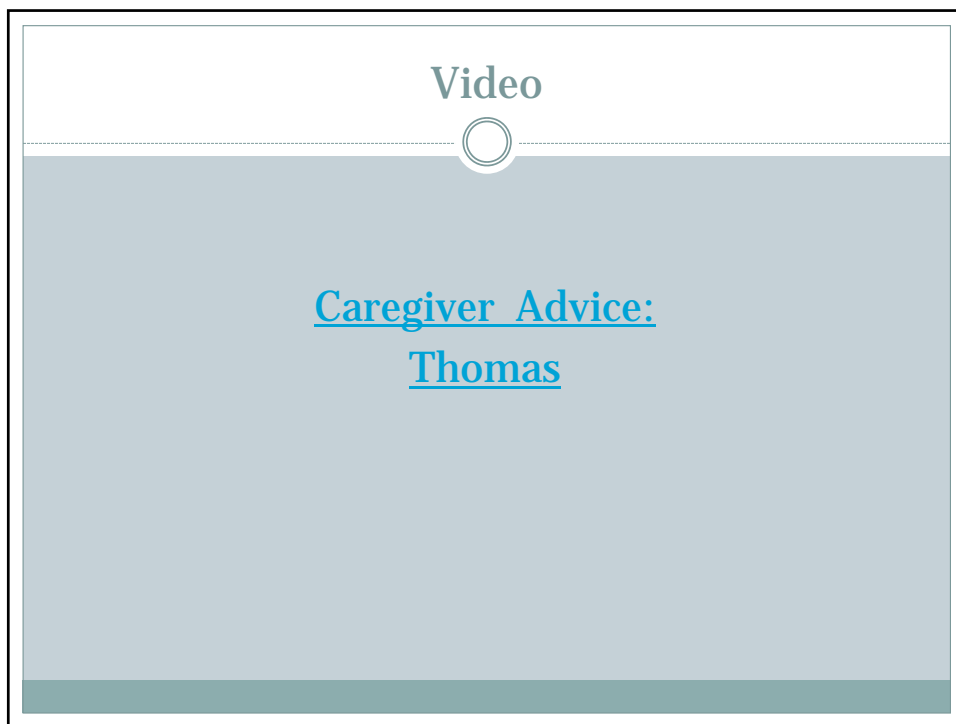
Caregiver Advice: Josh

Mock Review

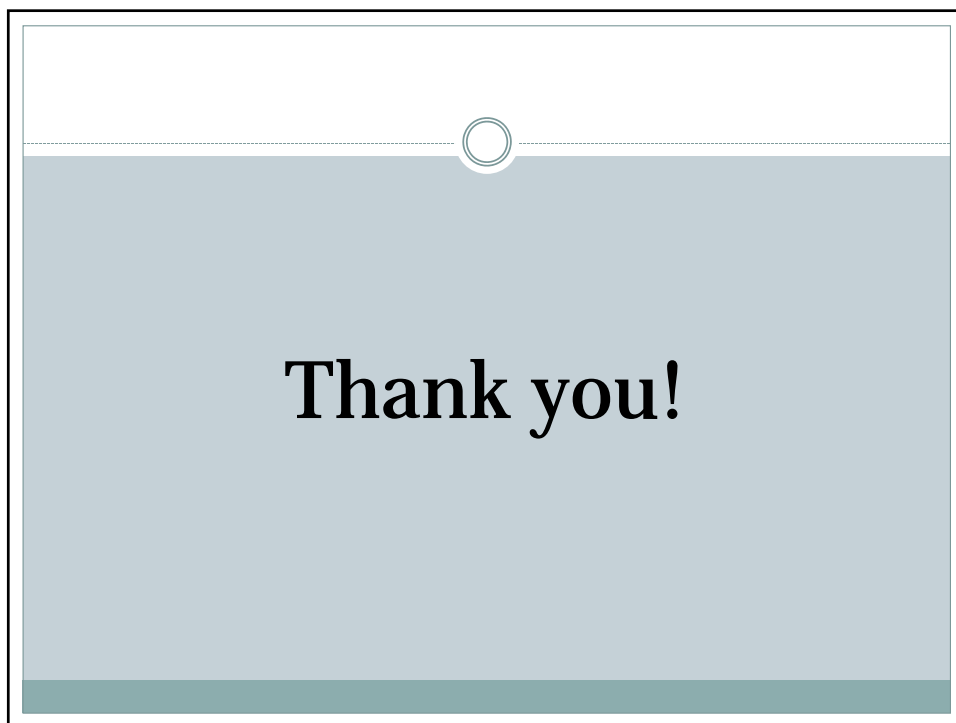


- **Did the board miss anything during the mock review?**
- **What do you think the primary issue is relating to Derek?**
- **What questions would you ask regarding Derek in order to determine if reasonable efforts were made?**

Video



Caregiver Advice:
Thomas



Thank you!