

It's Time To Follow The Law And Take Reasonable Efforts Seriously

Written by [Vivek Sankaran](#) - [October 22, 2018](#)

It's Time to Follow the Law and Take Reasonable Efforts Seriously

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A caseworker driving a child four hours--one way-- to visit his mother on a weekly basis. The child welfare agency putting a family up in a hotel for two days and hiring a professional cleaning service to return a home to a habitable condition. A children's attorney refusing to give up on finding a family connection for a severely disabled young man, even though he requires a residential treatment setting. A judge understanding the treatment and recovery process and insisting a parent receive the support they need. These are all solid examples of reasonable efforts to prevent removal or finalize a permanency plan recently provided by an audience of child welfare legal professionals. In total, a dozen or so strong responses to the straightforward question, what are the best examples of reasonable efforts that you have seen made? The question was posed to an audience of approximately 700. There were twelve examples of reasonable efforts in a room of 700 participants from around the country.

Sure, this scarcity could be partially attributable to a reluctance of folks to speak up publicly--asking for audience participation during a conference plenary is an unusual request. But it could also be something more serious. It could be that reasonable efforts have become a hollow finding, one made to comply with federal requirements and maintain funding as opposed to a legal finding to protect the integrity of the parent child relationship, advance the best interest and well-being of children, and prevent the trauma of unnecessary family separation.

I allege no malicious intent by any of the dedicated professionals in our field, but do submit that when we fail to take reasonable efforts seriously, we do real harm to children and

families. Maybe we've become too comfortable with the way the system typically operates, or perhaps accepted that nothing more or better can be done. I suspect for some it reflects a reticence to rock the boat by making a no reasonable efforts argument or finding, perhaps even a general trust that the child welfare system will keep the child safe for now and it's best to avoid risk. But that overlooks the fact that foster care has always been intended as a placement of absolute last resort and that family separation inflicts psychological and emotional harm to children and parents.

The problem is exacerbated by our infatuation with the latest and greatest thing - we have issues de jour, a growing number of specialty courts, and checklists and bench cards abound. To be fair, many of these efforts have brought value and helped infuse more knowledge into the courtroom and field. But collectively we take our eye off the ball, over and over again. The conversation never lingers on reasonable efforts in a substantive way, and our attention shifts.

In nearly two decades of work with courts and attorneys around the country, including direct practice, court observation, case file reviews, focus groups, and stakeholder interviews, I have yet to see compelling evidence that the statutory tools of reasonable efforts are being used as the law intended. Growing numbers of children entering care, continued challenges around parent engagement, and a national struggle to improve permanency outcomes for children in care all offer evidence of complacent legal practice and compliance-oriented findings.

The irony is that, if used meaningfully, the law provides an incredibly powerful tool for keeping families together and preventing trauma to children-- a judicial determination that reasonable efforts were made to prevent removals. Where out-of-home placement is necessary, reasonable efforts determinations to finalize the permanency plan are the second critical tool for expediting reunification or other safe permanency options and minimizing trauma to parents and children.

Making sure a child sees his or her parents regularly, refusing to separate a family over a "dirty house" case, and ensuring that case plans are designed to support parents struggling with substance misuse should represent the floor of reasonable efforts, not the ceiling. If we are serious about strengthening families, preventing unnecessary trauma to children and parents,

taking on implicit bias, reducing disproportionate placement of children from highly vulnerable families and communities into foster care, and no longer mistaking poverty for maltreatment, we must take reasonable efforts to prevent removal and reasonable efforts to finalize the permanency seriously and treat each with the urgency and substance that the law requires.

Comments



1.

Unknown [October 23, 2018 at 1:21 PM](#)

Wow. Yes! I especially agree that there is a definite issue mistaking poverty for maltreatment and neglect, including special needs kids being vulnerable along with the family when this type of thing is thrown at them. There are a lot of great and loving families in the surrounding Tri County area who have really really been victimized by these agencies and/or the courts, both plus a bitter ex spouse or otherwise making false accusations that completely destroy these kids and families that were doing well despite their financial disadvantages. Where kids were still clothes, fed, bathed and more so loved than most of the richest families in the community...some in which are neglectful of their kids or abusive but due to this faulty perception of people when it comes to financial position. Of the family and home, the message is that rich or well-to-do parents can't be negligent or abusive, and financially struggling families are criminal. So yes, I think there needs to be a genuine recalibration and reformation within CPS, foster care and the court's and their processes or failure to see the obvious vulnerability to corruption, professional misconduct or negligence plus mal intent by others, official, professional or non. No, not all these people are bad or doing a terrible job or are intending on breaking up families...but let's face it. The system as it stands now really really needs major changes for these kids to have a chance.

Very well written, thank you.

[REPLY](#)



2.

John St Clair [November 7, 2018 at 5:42 PM](#)

Our experience has been anything but reasonable with Oregon Child Welfare. As a matter of fact case workers with the exception of the current one that came on just before the permanency hearing have have been a hindrance at best and obstructed at worst. I hope someone in the state of Oregon reads your article and seriously considers it.

[REPLY](#)



nevergiveup [August 14, 2019 at 7:36 AM](#)

Reasonable efforts to prevent a child's removal and placement in foster care, HA! Children and Family Service Agencies throughout Ohio do not believe they are mandated to comply with the federal laws surrounding Title IV-E foster care and adoption assistance scheme! The sure can take the funds provided by the federal government but completely ignore the requirements in order to continue to receive these funds. I have brought it to the attention of the director of Ohio Children and Family Services, exhausted all administrative and appellant remedies available in the State of Ohio and have filed several Writs in the Ohio Supreme Court. But due to me filing pro se, I am ignored and discarded! In fact, an attorney for ODJFS filed the exact same documents I did a year prior, yep my motions were denied and the attorney's motion weren't!!!! Such a disgrace!!!!

REPLY

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A few days ago, I walked into a room full of young adults who had spent time in our foster care system, including some who had emancipated after many years. Entering a room full of folks who have experienced our foster care system personally is a familiar situation for me, and it's one of the greatest privileges and joys of my job. I meet and speak with as many young people and parents with lived experience as possible. In fact, this group was the second group of young people I had met with that day.

In looking around the room, I realized that I knew nearly all of the young people in the room. *I mean I really knew them* - Kayla, Joshua, Diego, David, Leroy, Scout, Lupe, Eric-lee and so many others. I had met these people on multiple occasions. We had been in meetings together, attended the same events, and had lots of conversation. I had heard their stories, been in photos together, and befriended many on social media (the only reason I stay on social media). I even mentor one of these y...

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