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Witness Stand Support from ATTACH

By Mary-Jo Land

Not so long ago, I was subpoenaed to testify in a child welfare custody and access trial. I was the therapist for the children. The matter was quite complicated with all parties having different opinions about with whom the children should be placed and whether parental access should continue.

For a variety of reasons, the trial onset had been much delayed. By the time the matter went to trial, the Parenting Capacity Assessment was dated, the children had significant attachment to the foster parents, and the parents had experienced life changes. What is the children's best interest when children have been in a healthy and nurturing foster family for more than two years and have had ample and consistent access with their parents? Typically, when parental rights are terminated, foster children are then adopted by a different family resulting in a rupture of their attachment to their foster parent. At that point, children are faced with two very significant losses: their parents and their foster parents. When children have been in the foster family for a substantial time, the balance between this rupture and permanency placement, be it with parents or adoptive parents, is difficult to assess. The many lawyers, the judge and I struggled with these complexities extensively in court.

To my surprise, assistance was provided by Vicky Kelly, Art Becker-Weidman, Dan Hughes and the ATTACH website. In my therapy reports, I cite the ATTACH website, Art's website and Dan's books, hoping that children's attachment needs will drive the custody, access and placement decisions. One of the lawyers did homework! The lawyer presented the court with Vicky Kelly's paper "Theoretical Rationale for Treatment in Attachment" from the website. Next, Art's and Dan's work and websites were explored. It quickly became apparent to me that the lawyer's intentions were not to discredit (as I assumed, as I was not that lawyer's witness) but to assist the court in truly understanding attachment, how early parenting and attachment are related and how attachment is critical to the well-being of children. In cross-examination, I was asked questions that allowed the court to create a future for the children that respected their attachments and avoided any attachment ruptures. The court allowed me to relate the theoretical information in the papers to the children's behavioural and emotional difficulties. Next, the information assisted in making practical decisions with the options available. Sometimes, clear elucidation of the needs of the children based on sound theoretical knowledge, can lead to cooperative decision-making to which all parties can contribute. Sometimes, I am able to make recommendations about how, and by whom, children should be informed of the decisions about their future and the need for on-going therapy.

I hope that clinicians are able to testify about the supports that caregivers need to maintain high-needs children in their home for many years. These supports might include:

- Sufficient financial remuneration so that the primary caregiver can remain home with the children and not seek outside employment.
- Attachment – focused therapy with the primary caregiver with each child for 1-2 years and in later developmental periods if necessary.
- Primary care-giver education, training and support
- Respite only if necessary and only with trained and familiar care-givers
- If access is granted, creation and continuation of a positive relationship between past and present attachment figures.

This particular trial had a very positive, healthy, appropriate and consensual outcome for the children. The judge and the lawyers allowed the court to become a child-centered, enlightened process, empowered by knowledge provided by our colleagues. Thank you all.