

# Representing the Non-Protecting / Victim Parent

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## **Biographical Information**

Wallace is a solo practitioner in criminal, family and juvenile law. He is a graduate of Saint Mary's Law School in San Antonio. Wallace is married with two twin boys in college.

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## **Representing the Nonprotecting / Victim Parent**

This paper will attempt to address the special circumstances involved in the representation of a Non Protecting/Victim Parent in the Children's Court on the abuse- neglect docket.

Perhaps first and foremost the attorney must be the lawyer the client needs since there has been (at least most of the time) a lawsuit filed and children taken into custody by the State. The lawyer's role in this regard is to explain the court process to the client, review the allegations, discuss the options the client has i.e. trials – jury/non-jury – or working a service plan to include – counseling, parenting classes, psychological evaluations, etc., and to work with the parties towards a resolution hopefully involving reunifying the client with her children. Along the way the attorney must assist his or her client in avoiding the pitfalls of criminal liability while building pathways of acceptance of personal responsibility and moving forward toward the client's goal of having her children returned.

There are certain cases where the choice of options are fairly limited and criminal liability looms large. In such cases the extent of the injuries to the children might reasonably warrant the filing of criminal endangerment charges against the client. In such instances it is of utmost importance that the client understand that any statement she gives in the abuse/neglect case can be used against her in the criminal case. However even here all is not necessarily lost in that good negotiating skills and the willingness of the client to learn from her mistakes might still work to get her a form of probation and eventually the return of her children. It is the skillful attorney who can present his or her client as a victim, even while she is accepting of responsibility for her children's current situation.

### **Concerns of the Attorney**

#### Presenting Problems

- Family In Crisis
- Client is Distraught, Depressed, Angry, In Denial
- Children have been removed from the home
- Allegations of Abuse/Endangerment
- Possibility of criminal charges against client
- Possible abuse of Drugs/Alcohol by client
- Possible loss of housing by client
- Pending Staffing, Court Date
- Legal analysis for regaining custody of children

#### Getting Client to Engage Process

- Come to Court
- Come to Staffings
- Come to Visits

#### Looking at The Relationship with the Abuser

- Choices
- Sinking/swimming together
- Going it alone

#### Getting Client to Focus on

- The big picture
- Getting children back

## Possible Solutions/What To Do

Interview client – Assume she wants her children back –

- Get her story
- Explain overall process i.e. Removal to Reunification,
- Also time frame, 6-12 months
- Also explain possible criminal liability

Interview Workers

- Removing Worker
- Legal Ongoing Worker

Interview Collaterals

within the family

Sort out the Issues

- Wear many hats
- Social Worker
- Therapist
- Legal Counselor

Negotiate with parties – seek to limit client's criminal exposure

- Attend – Staffings
- Attend – Court Hearings
- Talk with ADA's about case
- Visit – Worker's office to discuss special issues

Empower Client

- Involve client in decisions made
- Reassure her you are her attorney
- Resolve to help client get her children back
- Suggest referrals for additional help
  - Battered Women's Shelter
  - Advocacy Center

Reminders To Client

- Make all visits with children, always be appropriate
- Keep all service plan appointments
- Make all Court Hearings and Staffings
- Remain Drug/Alcohol free
- Get her own home
- Get a job
- End the Relationship with the Abuser

(Don't dance with who brought you)

### Client Resolves To,.....

- Accept a level of responsibility in the children's removal
- Recognize the children were injured/abused
- Recognize her part in her children being injured/abused
- Recognize she too is a victim
- Identify the injurious/abusive person
- Break the connection – end the abusive relationship for good – this time.
- Get her children back and to create a safe environment conducive to their nurture, well-being and protection
- Recognize that her children have a right to live in a home without fear or harm
- First, last and always, be there for her children