

May/June 2020

The Bencher[®]

THE MAGAZINE OF THE AMERICAN INNS OF COURT[®]



PROTECTING THE VULNERABLE

www.innsforcourt.org





PHOTO CREDIT: iStockphoto.com/rclassenlayouts

You Can Make a Difference to the Abused and Neglected Children in Your Community

By Jennifer Truelove, Esquire

The tops of her thighs and portions of her torso where her legs were pressed up against her abdomen were not burned. The pediatric burn expert from Parkland Memorial Hospital's Regional Burn Center in Dallas, Texas, explained that Alexis, at only 9 months old, had suffered an immersion burn at the hands of her father. The doctor advised that scalds due to immersion will demonstrate a line of demarcation and often involve the lower extremities and/or perineum. Immersion burns also lack splash marks because the child would have been held down and may have soft tissue contusions to support this evidence. It was clear that Alexis' father had held her by the ankles and the neck and folded her up like a lawn chair, exposing her vaginal area, and then intentionally dipped her into scalding hot water. In some cases, parents will abuse their child in this way as a punishment for soiling their undergarments while potty-training. In this case, we were certain that Alexis' father had subjected his daughter to this particularized type of abuse to cover up evidence that he had sexually abused her.

Five months earlier, Child Protective Services (CPS) had been called to a local hospital in East Texas with a report that a mother brought her infant daughter to the emergency room because the

mother found blood in the child's diaper. After an examination, it was discovered that Alexis had suffered an injury to her vagina, likely the result of penetration by some object. CPS interviewed

the father, who admitted losing his temper while holding his daughter and “accidentally rammed his thumb up her vagina” out of frustration. Based on this admission, he was arrested for injury to a child.

CPS put a protection plan in place with the mother, who signed the plan promising to be protective of Alexis, including not allowing the child’s father to have access to Alexis. Within days of being released on bond for the injury to a child charge, the mother allowed the father to return to the home. Soon thereafter, CPS was contacted by a local emergency room worker. Responding to the call, CPS found Alexis being treated for second- and third-degree burns over 70 percent of her body, including her genitals.

In 2018, nearly 4.3 million referrals were made nationwide to child protective services alleging abuse and neglect involving approximately 7.8 million children. Child Maltreatment 2018, ACF, www.acf.hhs.gov/cb/resource/child-maltreatment-2018 (last visited Feb. 18, 2020). After investigation, more than 678,000 children were deemed to be victims of abuse or neglect. *Id.* It is estimated that 1,770 children died as a result of abuse or neglect with children younger than one year old comprising almost half (46.6 percent) of those fatalities. *Id.* The youngest children are certainly the most vulnerable and susceptible to maltreatment. Nationally, more than one-quarter (28.7 percent) of victims are younger than 3 years old. *Id.* Victims younger than 1 are 15.3 percent of all victims. *Id.* The most common form of child maltreatment was in the form of neglect at 60.8 percent, followed by physical abuse at 10.7 percent and 7.0 percent that are sexually abused only. *Id.* The majority (77.5 percent) of perpetrators were a parent of their victim. *Id.*

Nelson Mandela, political leader and philanthropist, recognized that “we owe our children—the most vulnerable citizens in any society—a life free from violence and fear.” As lawyers, we have an obligation to use our professional skills to help protect children and alleviate the impact that child abuse has on the communities in which we live. As a prosecutor in Harrison County, Texas, charged with handling the CPS docket and all criminal cases involving abuse or neglect of a child, I witnessed firsthand the shortcomings in our system—a system meant to protect the most vulnerable children in our society.

There are three things as an attorney you can do right now to make a difference to the abused and neglected children in your community.

Volunteer Your Time and Services to Organizations that Advocate for Children

There are countless organizations that support and promote the well-being of children. One of the most prominent organizations that makes life-changing differences for the nation’s most vulnerable children is CASA, which stands for Court-appointed Special Advocates. This national organization provides standards and support to 950 programs in 49 states. National CASA/GAL Association for Children, <https://nationalcasagal.org> (last visited Feb. 18, 2020). CASA provides trained volunteers to act as the child’s guardian ad litem to advocate for the child’s best interests when the state takes custody of that child as a result of abuse or neglect. The ultimate goal of CASA is to ensure that every child who has experienced abuse or neglect can be safe, have a permanent home, and have the opportunity to thrive. *Id.* In Alexis’ case, her CASA volunteer conducted a thorough investigation on her behalf with the sole goal to make recommendations to the court as to what was in the best interest of Alexis. Alexis’ CASA volunteer actually testified as a witness at trial and recommended to the jury that the parental rights of both Alexis’ parents be terminated. The jury reached that verdict, and Alexis and her older brother were ultimately adopted by their foster parents where they are thriving today. At present, there are over 93,300 CASA volunteers who serve over 271,800 children annually. *Id.* As attorneys we are well-suited to become trained CASA volunteers. However, if you do not have the time to commit to volunteer and see a case to its conclusion you might consider serving on the board of directors for your local CASA program. If your community does not have a local CASA program, use your skills as an attorney to help establish one. At the very least, we are all capable of simply providing much needed financial support.

Serve as an Attorney Ad Litem

In every case where a child is taken into custody by the state due to abuse or neglect, the court will also appoint an attorney ad litem to represent the child. The role of the attorney ad litem differs from that of the guardian ad litem when a child

As lawyers, we have an obligation to use our professional skills to help protect children and alleviate the impact that child abuse has on the communities in which we live.

Continued on the next page.

Becoming a mentor or tutor for a child in foster care is a great way to make the difference of a lifetime for children in need of stability.

is placed into the custody of the state. Essentially, an attorney ad litem will act as a third attorney in the case and acts as the legal representative for the child, in the same way that the prosecutor represents the interests of the state and other attorneys represent their client's (often the child's parents) interests. The attorney ad litem will have an active role in court proceedings, including the ability to call witnesses on behalf of the child, object to evidence, and examine witnesses called to the stand, among other things.

The importance of having an involved attorney ad litem when a child is placed in the custody of the state cannot be overemphasized. In 2018, CPS workers nationwide completed an average of 72 investigations per worker. Child Maltreatment 2018, ACF, www.acf.hhs.gov/cb/resource/child-maltreatment-2018 (last visited Feb. 18, 2020). These investigations include assessing the allegation of maltreatment according to state law and policy. The primary purpose of the investigation is twofold: (1) to determine whether the child was maltreated or is at risk of maltreatment, and (2) to determine if services are needed for the child and which services to provide. *Id.* As the child's attorney, you provide an extra level of protection for the child in an overworked system. Your ultimate goal is to ensure that the state made the right determination as to the maltreatment or risk of maltreatment and that the child is receiving the necessary services while in care. Alexis was fortunate to have a very involved attorney ad litem. He played an active role in ensuring that she was ultimately placed in a foster home with her brother upon release from the hospital and ensured that they were kept together during the pendency of the case. He played an active role at trial, advocating on behalf of Alexis and continued to be her advocate until she and her brother were adopted together as a sibling unit.

Become a Mentor to a Child in Foster Care

An interesting part of Alexis' story is that both of her parents aged out of the foster care system. Today, there are over 440,000 foster youth nationwide, and that number continues to grow each year. 438,000 Children in Foster Care, iFoster, www.ifoster.org (last visited Feb. 18, 2020). Each year,

30,000 youth between ages 18 and 21 age out of the foster care system. Like Alexis' parents, they struggle to assimilate and thrive in a society that failed to invest in them when they were in foster care. *Id.* Within four years of aging out, 70 percent will be on government assistance, 50 percent will be unemployed, 50 percent will experience homelessness, 25 percent will not have completed high school, and less than 12 percent will earn a college degree. *Id.*

Becoming a mentor or tutor for a child in foster care is a great way to make the difference of a lifetime for children in need of stability. Mentoring, at its foundation, demonstrates to young people that someone cares about them, assures them they do not have to face day-to-day challenges alone, and instills a sense of purpose within them. Ultimately, mentors have powerful positive effects on a young person's personal, academic, and professional life, which translates to personal growth and development and social and economic opportunity. There are lots of different ways to mentor children of all ages. Help a teen in foster care succeed in college through Foster Care to Success. Academic Success Coaching, Foster Care to Success: America's College Fund for Foster Youth, www.fc2success.org/programs/mentoring-and-support (last visited Feb. 18, 2020). Volunteer with Big Brothers Big Sisters. Get Involved, Big Brothers Big Sisters of America-Youth Mentoring, www.bbbs.org/get-involved/ (last visited Feb. 18, 2020). Find mentoring opportunities in your area by using the National Foster Care and Adoption Directory to contact a local agency. National Foster Care & Adoption Directory Search, National Foster Care & Adoption Directory Search-Child Welfare Information Gateway, www.childwelfare.gov/nfcad (last visited Feb. 18, 2020). By stepping up and mentoring a child in care, you might just find that you were the single factor that contributed to that child's success and ultimately ended the cycle of abuse or neglect that landed the child in foster care in the first place. ♦

Jennifer Truelove, Esquire, is a principal in McKool Smith's Marshall, Texas office where she has extensive experience in the Eastern District of Texas litigating cases involving intellectual property, antitrust, whistleblower, and contract disputes. Prior to joining McKool Smith, Truelove was the first assistant district attorney of Harrison County, Texas, for seven years, where she prosecuted felony cases involving injury and assault of children and represented the Department of Family and Protective Services in cases where children and adults were taken into protective custody.