Formality of the Courtroom vs. Relative Informality of the Child Welfare Workplace


Recognizing that social service culture emphasizes a biopsychosocial perspective through which families and family members are seen in a context that acknowledges the developmental, social, political and cultural aspects of each, the authors of *Child Welfare and the Courts* contrast the organizational culture of the legal world which is distinctly different. Legal culture emphasizes individual rights and considers specific acts as “discrete and unrelated to the environment or to relationships.” A natural tension arises from the fact that social work practice standards require that interventions are framed from a systems perspective that considers both relationships and strategies for addressing both strengths and needs toward change. Attorneys representing children in abuse/neglect cases, however, emphasize the protection of individual rights and decisions are made on the basis of standards of evidence presented by witnesses.

Today’s child welfare professionals can expect to interact with the courts and, in fact, few areas of social work are more involved in the legal system. However, social workers are educated and trained to interact professionally in family and community systems with a goal of assuring safety and well-being for children. To achieve those outcomes, they engage with families around change strategies, continually assess safety, progress and the sustainability of change, do case planning and provide service interventions. Much of their work with children and families is conducted in the life space of the family and as such, professionalism requires them to reflect the dress and demeanor of the family in a way that supports building rapport and creating a relationship as a foundational strategy.

While effective practice with families involved in the child welfare system involves engaging with families, it also requires building professional relationships with other helping professionals, educators, community leaders and court and legal system professionals involved with the families child welfare serves. A comprehensive understanding of differing entities’ ethical and practice standards, the organizational culture and protocol is therefore vital to
effective professional communications and relationships when social workers interact with the legal and judicial system.

The American legal system is by nature adversarial and formalistic in contrast to child welfare’s collaborative and supportive perspectives. The legal system is created to find the truth that underlies a particular conflict through exchanges in which each player presents his or her position in a direct and public confrontation with his or her adversary. The court system explicitly seeks to air grievances, to consider alternative explanations and even to challenge assumptions. Vandervort points out that “This testing of the adversary’s case is accomplished through the presentation of evidence, the testimony of witnesses, documents and other tangible items (e.g., photographs of a child’s injuries, an implement used to inflict harm upon a child) and through confrontation and the vigorous cross-examination by leading questions of witnesses identified with one’s adversary.” (548)

If social workers are to claim their own professionalism, each must understand both the adversarial and formalistic environment of the court. They must develop and enhance skills at documentation, court reporting, and verbal testimony in a way that reflects knowledge of the strengths of their own profession as well as respect for the legal and court system’s organizational climate. Instead of adopting the stereotype that lawyers are overly analytical, inflexible or uncaring, social workers must seek to understand lawyers are assertive advocates fighting for their client’s rights in an appropriately adversarial system. By carefully attending to professional presentation and by developing skills at reporting to and testifying before the court, social workers can do a lot to mitigate the assumptions or stereotypes of social workers as emotional or unprofessional.

Establishing Credibility as a Professional

Establishing a consistent pattern of professionalism is the most direct path for child welfare workers to succeed in the legal arena. A sound knowledge of the laws that control child welfare cases and understanding how the legal system works are essential starting points. It is equally important, though, that social workers have excellent social science knowledge supported by sound theory and practice experience in order to collaborate effectively with the legal community.

Effective child welfare casework is based on establishing a relationship between the case worker and the client. While engaging with some family members is easier than others, professionalism requires commitment to building rapport with each person in the family. This requires communicating concern both for parents and children as well as an understanding of the importance of working together to create a plan which will keep the family together. To accomplish this, caseworkers must be empathetic and sensitive to family members’ feelings as well as needs. By emphasizing the strengths of the family, interventions can be customized to motivate parents to change and to build sustainable change. Caseworkers who experience the
most success with families are those who work most effectively with parents. Insightful judges recognize this quality in caseworkers and value the results.

When social work professionals communicate clearly and directly, the likelihood of misunderstanding important information, including possible case outcomes, is avoided. Families will be more likely to understand the importance of participating in the development of case plans that are based on individual, family and community strengths, customs and resources. In addition, they may be more engaged or included to accomplish the objectives and tasks within the case plan. Case managers who prepare parents before and discuss outcomes after specific hearings will reinforce both expectations and outcomes.

Presenting written documentation and testifying to provide information to courts in support of judicial decision-making provides opportunity for case managers to demonstrate professionalism, something that social workers do at every point in practice. While it is vital to know and understand court and legal protocol, it is also important to remember that professionalism begins from day one and is manifested in confidence, credibility, empathy, effectiveness, preparation and in the quality of one’s work. In addition, social workers can interact with colleagues by reflecting professionalism in dress, demeanor, etiquette and by observing protocol in interacting with colleagues.

Factual and objective reporting and specificity in recommendations increase the social worker’s influence and credibility in the courtroom as do professional attire and decorum. Typically, the worker should have the commodities most needed by the players in the legal arena: the facts of the case and well-reasoned solutions to the problems.

Finally, dressing professionally can add to a social worker’s credibility. Judges are familiar with attorneys as well as a courtroom standard that requires more formal attire which reflects the solemnity of the proceedings and respect for the decisions made during proceedings. If social workers want to claim their own professionalism, it is important to realize that they will be compared to the attorneys present and that dressing appropriately is not as much a matter of what is acceptable as it is a matter of reflecting an appropriate level of professionalism in a particular environment. Since social workers represent their profession at all times, it is important to maintain an appropriate professional distance from the judge, even if he or she is being more casual “off camera”.