

# **This is a summary of the California appellate decisions dealing with Reasonable Efforts. (1/2022)**

## **CALIFORNIA**

**STATUTES:** CAL. Welfare & Inst. Code §§ 306, 309(a), 319, 361, 361(d), 361.5, 362, 366.21(e), 366.21(f), 366.22(a) (West Supp. 1990) and CAL, Civil Code § 232(a)(7) (West Supp. 1990); Removal in an emergency situation: W & I §319; Must provide services even for incarcerated parent (§ 361.5(e)(1) – West, 1998). Requires R/E finding at every hearing from initial removal through TPR; Cal W & I Code § 16501.1(b)(2) (R/E shall be guided by child’s health and safety); Definition: W & I § 727.4(d)(5); R/E to achieve permanence = CRC 1461(b)(2); W & I §§ 727.3(a)(1) and 727.3(a)(3). Who is not entitled to reasonable services – W & I § 365(b)(1) – (15). California Rules of Court, Rule 5.678.

**CASE LAW: (Several cases appear more than once because the case involved more than one subject).**

### **REASONABLE EFFORTS TO PREVENT REMOVAL**

*In re Amy M.*, 232 Cal. App. 3d 849, 856 (1993) – The trial court removed the daughter from her home after sexual abuse by the father occurred. The son was permitted to return on condition of no contact with father. The mother permitted contact with the father and the son was removed. Held: Agency provided reasonable efforts to prevent removal of son.

*In re Cole C.*, 174 Cal.App.4<sup>th</sup> 900 (2009); The agency made reasonable efforts to prevent the need for Cole’s removal from father, Mark. The father had not accepted any voluntary service referrals, and he did not participate in visits with Cole in a structured setting. The court found that Cole would not be safe in father’s care until father acknowledged the inappropriate nature of his parenting techniques and disciplinary methods.

*In re Ashly F.*, 225 Cal.App.4<sup>th</sup> 803 (2014) – Removal of children – Reversed. The mother seriously beat one of her children using an extension cord. Other incidents of physical abuse had occurred. The court removed the children at the detention hearing. The trial court found that “reasonable efforts have been made to prevent or eliminate need for [the children’s] removal from home.” The trial court did not identify or describe those “reasonable efforts”

were, nor did the court inquire into the availability of services “that would prevent or eliminate the need to detain the child or that would permit the child to return home” as required by California Rules of Court, rule 5.678(c)(2). W & I §361(d) requires the court to make a determination whether reasonable efforts were made to prevent or eliminate the need for removal of the minor from his or her home and that the court “shall state the facts on which the decision to remove is based.” The court did not do this, thus making the finding “merely a hollow formula designed to achieve the result the agency seeks.” “A finding of parental abuse is not sufficient by itself to justify removing the child from the home.”

## **REASONABLE EFFORTS TO REUNITE THE FAMILY**

### **1. Housing**

*In re G.S.R.*, (2008) 159 Cal. App. 4th 1202; Writ by father. Granted. The agency should have crafted a plan to help the father obtain housing. The appellate court reasoned that “the only reason Gerardo did not obtain custody of the boys was his inability to obtain suitable housing for financial reasons. But poverty alone, even abject poverty resulting in homelessness, is not a valid basis for assertion of juvenile court jurisdiction.” (at p. 1212)

*Hansen v Department of Social Services*, 193 Cal. App.3d 283, 238 Cal. Rptr. 232 (1987) – This was a class action on behalf of homeless families or imminently threatened by homelessness. The appellate court held “that DSS regulation which limits ‘emergency shelter care’ to children ‘who must be immediately removed from their homes,’ to be contrary to the plain meaning of the Welfare and Institutions Code...” (286). All reasonable efforts must be made to prevent the unnecessary separation of children from parents, including housing assistance. This is what congress intended ...”to prevent or eliminate the need for removal of the child from his home.” The agency’s obligation is to provide ‘emergency care to all homeless children, whether or not separated from their families. As a result the legislature passed W & I § 16501(a)(3) “As used in this chapter, “emergency shelter care” means emergency shelter provided to children who have been removed pursuant to Section 300 from their parent or parents or guardian.” W & I § 16501, 5(c) – states that housing services were for children only, no mention of a non-offending mother.

*T.J. v. Superior Court* (2018) A153034 – The 3 children were removed from mother because she was not giving her eldest child needed medications and the house was unsanitary. Services were ordered but were significantly delayed. When services were terminated, mother filed a writ. GRANTED. Because mother was waitlisted for a significant time on critical components of

her case plan (individual therapy, in-home counseling, and parent education) and was provided no assistance with in-home support services, anger management or housing, there was no substantial evidence the Agency provided or offered reasonable services to mother designed to meet her special needs. With regard to housing the agency “offered no assistance to her in finding suitable housing or helping her learn basic independent living skills” other than referring her to GGRC which placed her on a waiting list for Brilliant Corners. That referral never provided her with any housing.

## **2. Family Time (Visitation)**

Adequate visitation between the parents and child has been the focus of reasonable efforts in a number of California appellate rulings. Parents complain that they did not have an opportunity to maintain a connection with their children because the agency did not adequately facilitate visitation.

***Serena M. v Superior Court***, 52 Cal. App. 5<sup>th</sup> 659 (2020) – Services terminated. Writ – Granted. Terminating a mother's reunification services and setting a Welf. & Inst. Code, § 366.26, hearing was error because a no-contact visitation order under Welf. & Inst. Code, § 362.1, subd. (a)(1)(B), even if initially reasonable to protect the child from abuse, became unreasonable when the juvenile court failed to consider evidence favoring therapeutic supervised visitation, regardless of the mother's lack of progress in court-ordered services, and thus a finding at the Welf. & Inst. Code, § 366, subd. (a)(1), review hearing that reunification services were adequate under Welf. & Inst. Code, § 366.21, subds. (e)(8), (f)(1)(A), 366.22, subd. (a)(3), lacked sufficient evidence; Extending the period of reunification services under Welf. & Inst. Code, § 361.5, subd. (a)(3)(A), was a proper remedy because failure to provide services justified an extension.

***In re Alvin R.***, 124 Cal. Rptr.2d 210, 108 Cal. App. 4th 962; TPR – Reversed. Because of a failure of the department to provide counseling, visitation between father and child did not take place. (at p. 973.) “The longer parent and child live with no visitation, the less likely there will ever be any meaningful relationship.” Reasonable efforts services can include arrangements for visitation – (at 217.) Visitation is important and should be allowed as much as possible. (at 217). If a child is reluctant to visit and family therapy is necessary to promote visitation, such therapy may be critical to reunification.” “Some effort must be made [by the agency] to overcome obstacles to the provision services...Here...reunification was not going to be accomplished without visitation....” (at 218). “We recognize that the mere fact that more services could have been provided does not render the Department’s efforts unreasonable.” (at 218).

***In re L.M.*** (2009) 177 Cal.App.4th 645. The juvenile delinquency court has the power to order the probation department to pay for transportation for visitation if the parent is indigent.

***In re David D.***, (1994) 28 Cal.App.4<sup>th</sup> 941 - TPR – Reversed. Adequate reunification services were not provided. In addition, despite evidence of the minors' bond with their mother, the juvenile court allowed only one visit between termination of reunification services and the termination hearing. The juvenile court thereby ensured the "regular visitation" needed to meet an exception to adoption (Welf. & Inst. Code, § 366.26, subd. (c)(1)(A)) could not be satisfied. The referee ignored the minors' best interests by suspending visitation, ignoring an expert's recommendations as to the minors' bond with their mother, terminating reunification services, and limiting visitation after that termination. The appellate court held that the agency and trial court placed an unreasonable burden on mother thus preventing her from visiting.

***Kevin R. v Superior Court***, (2011) 191 Cal. App. 4th 676.

The court cannot order parent-child visitation when that would be contrary to father's parole conditions.

***In re Brittany S.***, (1993) 17 Cal. App. 4th 1399. TPR - Reversed. An incarcerated mother did not receive adequate services even though her place of confinement was close to where her daughter was living. The social worker did not monitor mother's progress while in custody thus guaranteeing a termination proceeding.

***In re Julie M.***, (1999) 69 Cal. App. 4th 41. Writ challenging termination of services at six month review hearing. The appellate court reversed as to the visitation order. Reasonable efforts were provided regarding visitation – the social worker encouraged the children to visit. But, it was unreasonable for the court to delegate the visitation decision to children. The court might rely upon an evaluation by the children's treating therapist regarding their emotional conditions and evolving needs. The agency had an obligation to oversee the visitation process.

***In re Elizabeth R.*** (1995) 35 Cal.App.4th 1774; Writ filed by the mother challenging termination of reunification services. Writ granted. The appellate court stated that visitation is a critical part of the reunification plan. Because the mother had been denied visitation after the 6 month review, the court ordered that services be continued. "Visitation and compliance with the reunification plan should be indicia of progress toward family preservation." (at 1790).

***Tracy J. v Superior Court***, 202 Cal. App. 4<sup>th</sup> 1415; TPR – Reversed. The appellate court held that the agency failed to make reasonable efforts in that visitation was inadequate given the safety concerns present in the case. The parents were of limited intellectual functioning, but had fully

cooperated with services offered and visits had been reported as positive. Nevertheless, the agency only permitted one supervised visit a week and visits were not increased or unsupervised during the entire reunification period. The appellate court held that this was a denial of reasonable efforts and that the visitation should have been increased. The case was ordered back to the trial court with instructions to increase visitation.

***In re Precious J.*** (1996) 42 Cal. App. 4th 1463. TPR - Reversed. The appellate court held that reasonable services for incarcerated parents includes visitation. There is no excuse for the agency to neglect this. The agency is responsible for in-custody visits.

***In re David D.*** 28 Cal. App. 4th 941 (1994) – TPR – Reversed on the issue of terminating reunification services. The mother put her children in foster care while she was escaping an abusive environment. When, on advice of counsel, she did not deliver hospital records of her attempted suicide to the court, visitation was suspended. Adequate reunification services thus were not provided. Moreover, despite evidence of the minors' bond with their mother, the court allowed only one visit between termination of reunification services and the termination hearing. Visitation was required pending the hearing absent a finding it would be detrimental per Welfare & Institutions Code, § 366.21, subd. (h)), but no such finding was made. The appellate court ordered six more months of reunification services.

***In re S.H.***, 111 Cal. App. 4th 310 – The children were removed because of sexual abuse. At disposition the court gave the children the power not to participate in visits with their mother. The appellate court reversed. Visitation is a necessary and integral component of any reunification plan. The power to decide whether visitation occurs lies with the court alone. It cannot be delegated to others. A child who refuses to visit cannot control the situation.

***In re Christina L.***, (1992) 3 Cal. App. 4th 404; TPR – Affirmed. The parent-child visitation demonstrated that mother had no interest in her relationship with her daughter. Reasonable efforts provided. Mother must show some interest and motivation.

***In re Monica C.***, 31 Cal. App. 4<sup>th</sup> 296 (1995) – TPR - Reversed – for lack of reasonable efforts. The social worker did not provide an incarcerated mother with a plan for visits with her child. The social worker unreasonably delegated to mother the responsibility of sending the caseworker a list of available services in prison, knowing that such services were minimal or non-existent.

***In re L.M.***, 99 Cal. Reporter 3d 350 (Ct. App. 2009) – Motion for funding for visitation – Denied. The trial court properly denied the juvenile's request for payment of parents' travel expenses

for visitation because they failed to prove such an order would be appropriate. While the court has the power to order the agency to pay for travel under its broad authority to order services and ensure reasonable efforts are made in dependency and delinquency cases, the court may consider such factors as the parents' ability to pay, the permanency goal, and the benefit of visitation. There was little documentation or testimony to support the motion presented at trial.

***Christopher D. v Superior Court***, 210 Cal.App.4<sup>th</sup> 60 (2012) – Termination of services – Writ filed. Granted. The father petitioned the court of appeals regarding the trial court's order regarding visits. The court concluded that substantial evidence supported the juvenile court's finding the father was provided reasonable visitation while incarcerated, but that there was no substantial evidence that the father received reasonable visitation services during the three-month period he was confined in a residential drug rehabilitation facility.

***In re Tal. W. In Re T.W.*** (2017) 9 Cal. App. 5th 339; The Father appeals from the juvenile court's findings at the six-month review that reasonable efforts were provided to him and that active efforts were made to prevent the breakup of the Indian family. The father who was living in Florida was provided only one telephone call during the 6 month of reunification services. REVERSED. This was unreasonable contact between the child and father.

***In re A.G.***, 12 Cal. App. 5th 994; (6/2017) – The Father was deported to Mexico for assaulting the mother. The children were removed from the mother, then returned to her, then removed again. The father was offered reunification services. At the 12 month hearing the court found that reasonable services were offered to the father. The court found that the father was deported because of his conduct and services were not available in Mexico. REVERSED. There is no "Go to Mexico, lose your child" rule in California. Parenting education classes were available in Mexico, frequent visitation was an option, and the agency did not assist the father in identifying services in Mexico as required by WILC §361.5(e)(1)(E).

### **3. Provision of a case plan detailing services**

***In re Precious J.*** 42 Cal.App.4<sup>th</sup> 1463 and ***Mark N. v Superior Court***, 60 Cal.App.4<sup>th</sup> 1158 – In each case the parent was incarcerated. The appellate court noted that federal law requires a case plan to be created for each child receiving foster care payments, and that the plan include services to improve the conditions in the parents' home and "facilitate return of the child to his own safe home."<sup>1</sup> The case plan must include "a description of the services offered and

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<sup>1</sup> 42 U.S.C. sections 671(16) & 675(B).

provided to prevent removal of the child from the home and to reunify the family.<sup>2</sup> The appellate court asked if the agency, in fact, provided the services specified in the service plan. The court held that the agency did not follow the court order to provide the incarcerated parent with visitation.

*In re Luke L.*, 44 Cal. App. 4th 670; (1996) – Placement of dependent children out of state – Reversed. The appellate court held that out-of-state placement would hinder reunification services, particularly visitation. The agency was ordered to create a back-up plan. The state agencies must provide services “in spite of the difficulties of doing so or the prospects of success.”

*In re Dino E.*, 6 Cal. App. 4th 1768, 8 Cal. Rptr. 2d 416 (1992) – Services terminated. The father filed a writ which was granted. Held: reasonable services had not been offered to father – therefore services could be continued past the 18 month limit. The court is not required to terminate services at 18 months, but had the discretion to continue those services beyond that date since the agency had not provided reasonable efforts during the first 18 months.

#### **4. Substance Abuse Services**

Many parents lose custody of their children because of their substance abuse problems. The question for the court is often whether the agency has provided adequate services for the parents in these cases.

*Angela S. v Superior Court of Mendocino County*, 36 Cal. App. 4th 758 (Cal. App. 1995) - The mother filed an extraordinary writ after the juvenile court terminated her services. The Writ was denied. The appellate court noted that the services offered to the mother were reasonable, but that she continued to abuse drugs and live an unstable lifestyle.

*Jennifer R. v Superior Court of San Diego* (2012 Cal. App. LEXIS 5 - unpublished) - The trial court terminated services for the mother. The mother filed an extraordinary writ claiming that the court’s finding of reasonable efforts was unsupported by the evidence. The appellate court granted the writ, stating that the agency should have made an immediate assessment of mother’s substance abuse needs and provided services to her. This was a failure of reasonable efforts. “[T]he record does not support the finding that the Agency identified the problems leading to the loss of custody of the child, offered and provided services designed to remedy

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<sup>2</sup> 45 C.F.R. section 1356.21(c)(4)

those problems, and made every reasonable effort to assist the parent in the areas where compliance proved difficult.”

*In re J.P.* (2017) 14 Cal. App. 5<sup>th</sup> 616 – Father from Myanmar (Burma) had a serious alcohol abuse problem. At disposition the court ordered alcohol treatment, however, there were no Burmese speaking counselors available. The appellate court held that the juvenile court has an obligation to provide access to services. The case was remanded to the trial court.

## **5. Domestic Violence and Sexual Abuse**

*In re E.B.*, (2010) 184 Cal. App. 4<sup>th</sup> 568; Domestic violence frequently results in state intervention on behalf of children in the home. The legal issues that the court must decide include whether the agency provided reasonable services to prevent removal and, then, at subsequent hearings, whether the agency provided adequate services to permit the parents to reunify with their child. In this case the state provided services, but the mother kept returning to the abusive father.

*In re Amy M.*, 232 Cal. App. 3<sup>d</sup> 849 – TPR – Affirmed. There were allegations of sexual abuse by the father. The daughter was removed and then after a trial return, the son was removed. The mother was unable or unwilling to protect either child from the father. The appellate court found that reasonable efforts had been offered.

*In re Taylor J.*, 223 CA 4<sup>th</sup> 1446 (2114) – Trial court terminated reunification services. Appeal by mother. Reversed. The court of appeal held that it was error to terminate reunification services because substantial evidence did not support a finding that DCFS provided reasonable reunification services, as required by Welfare & Institutions Code, § 361.5, subdivision (a). Although the mother did not complete the ordered domestic violence victim counseling and individual therapy, the list of counseling agencies provided by DCFS contained the name of only one domestic violence victim counseling agency in proximity to the mother's home, and did not contain the names of any individual counseling agencies. Further, when the mother told the DCFS worker that she needed money for counseling, the worker's response was only to note that the mother was sending the child \$30 each week and over \$300 for Christmas. The record did not show that DCFS gave the mother any advice or assistance in locating an approved program after it determined that the program in which she had enrolled was inadequate or that DCFS advised her that online programs were unacceptable at the time the court ordered her to participate. DCFS provided no reunification services to the mother between the 12-month and 18-month reviews.

## **6. Mental Health Services**



Some parents suffer from mental health problems so severe that the state attempts to remove the child from their care. At the outset of the case, the court must determine whether the agency could have prevented the removal and thereafter, whether the agency provided adequate services to assist the parents reunite with the child.

***In re Venita***, 191 Cal. App. 3d 1229, 236 Cal. Rptr. 859 (1987) – TPR – Reversed. The parents of a 3-year-old child lost custody because of substance abuse and mental health issues. The agency amended the service plan 5 times in little over a year. The court ordered Alcoholics anonymous for father, but this was not the reason for dependency. The mother had substantially complied with service plan, but that was ignored by the lower court that focused on father’s alcohol problems. The court found that the original cause(s) necessitating dependency have been substantially alleviated, and that the juvenile court, in considering "new" problems, should determine first whether the so-called new problem is no more than another manifestation of the original basis for dependency. If not, the court should determine whether the new problem would sustain a jurisdictional finding.

***In re Alvin R.***, 108 Cal. App. 4th 962, 2003; TPR - Reversed. The department failed to make reasonable efforts to place the child in counseling and this prevented the father and child to participate in conjoint counseling. Reunification in this case was not going to be accomplished without visitation, and such was unlikely without conjoint therapy, which was not going to be accomplished unless some effort was made to get the child into individual therapy. The Department submitted no evidence of having made a good faith effort to arrange counseling sessions.

***In re T.M.***, (2009) 175 Cal. App. 4<sup>th</sup> 1166 – TPR – Reversed. Mother was missing and dependency was declared. After 3 months, the social worker learned mother was in a psychiatric facility. An attorney was appointed. At the 6-month review, parental rights were ordered. The appellate court reversed finding no case plan had been developed and no reasonable efforts had been provided to the mother. TPR was not a legal option under the statute, only guardianship or long-term foster care.

***In re Elizabeth R.***, (1995) 35 Cal. App. 4th 1774, 1790 - TPR – Reversed. The mother suffered from bi-polar disorder and was hospitalized several times. The mother made significant strides in the last few months before the trial. The appellate court ruled that the trial court should have given her more time. The case plan should have addressed mother’s mental health challenges. “If mental illness is the starting point, then the reunification plan, including the social services to be provide, must accommodate the family’s unique hardship.” The plan must be specifically tailored to fit the circumstances of each family, and must be designed to

eliminate those conditions which led to the juvenile court's jurisdictional finding. Reasonable efforts not found.

***In re Misako R.***, 1 Cal. App. 4th 538, 3 Cal. Rptr.2d 217 (Cal. App. 1991) - The trial court terminated reunification services. A writ was filed by the mother to the appellate court – writ denied. The mother claimed she did not receive adequate services for her mental retardation. But court found that the services for her were reasonable including a psychological evaluation, counseling, case management, interpreter services (Mother was Korean speaking), and referral to the Regional Center and charities. The appellate court held these were reasonable efforts especially since the mother did not cooperate with the service providers.

***In re Victoria M.***, (1989) 207 Cal. App. 3d.1317. TPR – Reversed. The appellate court held that a disabled parent is entitled to services to fit her needs (housing, parenting counseling, and referral to the Regional Center). The mother was mildly retarded (IQ 58, then 72). The children were removed for lack of housing, but also lice and scabies and infected wound. Parental rights were terminated. In reversing the trial court the appellate court held that the agency did not tailor services to meet mother's specific needs. First the agency must provide reasonable efforts – then, if they are not enough, the court must decide if TPR is in the children's best interest.

***Katie V. v Superior Court***, 130 Cal. App. 4<sup>th</sup> 586 (2005) – TPR – Affirmed. Reasonable Efforts found by the trial court and affirmed by appellate court. Mother had mental health issues. The agency provided a case plan, domestic violence program, parenting class, counseling and substance abuse counseling. The mother also lacked motivation and at times stopped taking her medications.

***In re Daniel G.***, 25 Cal. App. 4th 1205, 31 Cal. Reporter 2d 75 (Cal. Ct. App. 1994) – TPR – Reversed. The appellate court delayed the permanent placement of a child who had been in state custody since he was four days old because the state agency could not show that it provided services to the child's mother who suffered from a serious mental illness. At the final 18-month review, the trial court found that respondent had not provided reasonable reunification services to appellant and her son since the six-month review but set a hearing on a permanent plan for appellant's son. At that hearing the court ordered termination of appellant's parental rights. The appellate court reversed, finding that the trial court had discretion, under Cal. Welfare & Institutions Code § 366.22(a), to continue reunification services beyond the 18-month review hearing, and that its failure to exercise that discretion made its order reversible. The court found that in order to meet due process requirements at the termination stage, the trial court must be satisfied reasonable services have been offered

during the reunification stage. However, the social worker testified that he had never spoken to the mother and never investigated services for her, did not know her living arrangements, and allowed the child's foster mother to "graciously" arrange occasional visits consistent with her schedule. The trial court called the state's efforts a "disgrace," but terminated parental rights believing there was no time left for services.

***Angela S. v Superior Court of Mendocino County***, 36 Cal. App. 4th 758, 42 Cal. Reporter 2d 755 (Cal. App. 1995) – Writ by mother after trial court terminated reunification services. Writ denied. The children were removed because of chronic neglect, substance abuse, and emotional stability. When the court terminated reunification services, the mother petitioned the appellate court stating that services did not address her psychological impairments – a personality disorder and an IQ of 72. The appellate court held that she had received a "plethora of services" including a psychological evaluation, parenting classes, family preservation services, counseling, and inpatient and outpatient substance abuse services. Nevertheless, she continued to use drugs, irregular therapy sessions, frequent moves and exposure to domestic violence.

***In re Mario C.***, 226 Cal. App. 3d 599 (1990). TPR – Affirmed. The mother had been receiving services for 17 years. The appellate court found that she had been provided reasonable efforts by clear and convincing evidence. The services included a psychological evaluation and many attempts at counseling. The mother resisted counseling and therapy stating she could handle her own problems, and continued to use drugs and be involved in criminality.

***In re Walter P.***, 228 C.A.3d 113 (1991) – TPR – Affirmed. In a proceeding to free a minor from custody and control of his parents pursuant to Civ. Code, § 232, the trial court did not err in failing to ascertain whether services offered by the state through regional centers serving developmentally disabled persons might have enabled the parents to reunite with the minor. While the mother functioned on the borderline of normal mental ability and suffered from chronic mental problems, there was no indication that she qualified for services that could have been provided by a regional center. She did receive assistance from the minor's foster parents, who were registered nurses, the public health nurse, a volunteer from the county department of public social services, a department family maintenance worker, and the minor's social worker. The record reflected that the mother's problem was less a function of lack of mental ability than a poor attitude and lack of motivation to parent a fragile child with special health needs. The evidence was sufficient to support the court's finding that the department had offered the parents adequate reunification services.

***In re John B.***, 159 Cal. App. 3d 268 (1984) – Out of home placement without reunification services – Reversed. The child was removed from the mentally ill mother, and services were not offered. Appellant mother had an extensive history of psychiatric problems and her other three children were declared dependents and permanently placed in non-maternal custody after reunification efforts failed due to appellant's deteriorating mental state. After the birth of the subject child, the trial court declared him dependent, referred him for permanent placement, and ordered monthly, supervised visitation. The appellate court reversed the decision because the trial court did not comply with the mandatory family reunification objective.

***In re Christina L.***, 3 Cal. App. 4th 404 (1992) – TPR- Affirmed. Respondent department of social services filed a petition to terminate the parental rights of appellant mother pursuant to Cal. Civ. Code § 232(a)(2). The juvenile court received evidence that the mother suffered from a developmental disability as well as emotional problems, and lacked judgment and insight into her problems. The court determined that a parent under such circumstances was not excused from the statutory requirement of a reunification plan and that the juvenile court must ascertain whether the services offered were reasonable under the circumstances. Cal. Civ. Code § 232(a)(7). In affirming the judgment of the juvenile court terminating appellant's parental rights, the court found that the department made a good-faith effort to develop and implement a family reunification plan but that in order for appellant to obtain any value from the services, some motivation and participation on her part, to the extent of her ability, would have been required.

***In re Anthony P.***, 84 Cal. App. 4<sup>th</sup> 1112, 101 Cal. Reporter 2d 423 (4<sup>th</sup> Dist. 2000) – TPR – Affirmed. The gravely mentally ill mother claimed the Americans with Disabilities Act preempted state termination proceedings and precluded a termination of her parental rights. The appellate court rejected her claim, pointing out that termination proceedings are not “services, programs, or activities” within the meaning of the federal act. These proceedings are held for the child’s benefit, not the parent’s.

***Tracy J. v Superior Court***, 202 Cal. App. 4<sup>th</sup> 1415 (2012) – Writ by parents challenging the termination of reunification services by the trial court. The writ was granted. The child was removed from the parents' custody on the ground that the parents were developmentally disabled and could not provide regular care to him. The parents received only limited and supervised visitation. They were not instructed on how to recognize the child's asthma symptoms. They fully cooperated with the agency and received positive reports from service professionals. The appellate court held that substantial evidence supported the trial court’s detriment finding under Welfare & Institutions Code, §§ 366.21, subdivisions (e), (f); 366.22,

subdivision (a), based on the parents' lack of ability to recognize and respond to the child's asthma symptoms. However, substantial evidence did not support the finding that reasonable family reunification services had been offered or provided under § 366.21. Despite the availability of significant support services, the parents had been deprived of a reasonable opportunity to show that they were able to parent their child. They were entitled to that opportunity under Welfare & Institutions Code, §§ 300.2, 361.5, 16501, and 42 U.S.C. § 629a(a)(7). In view of the lack of reasonable reunification services and the absence of abuse, there was good cause to continue the review hearing so visitation could be continued and expanded in an effort to see whether they could visit safely.

***In re K.C.***, 212 Cal. App. 4<sup>th</sup> 323 (2012) - Termination of family reunification services – Writ granted. Dependency was established because of the condition of the parent's home and the children's hygiene. The appellate court held that the record did not contain substantial evidence that reasonable reunification services were provided to the father, as required by Welfare & Institutions Code, § 361.5, because plaintiff county department of family and children's services did little to secure a psychotropic medication evaluation recommended for the father in a psychological evaluation and failed to demonstrate that it could not reasonably be expected to do more. The psychologist's report indicated that the father's less-than-full cooperativeness was itself a product of psychological conditions that might have been responsive to pharmacological treatment. The problems leading to the father's loss of custody all appeared to stem from mental health issues. The department quite properly undertook to identify those issues, but seemed to delegate the burden of finding and obtaining suitable services to the father himself, despite the high likelihood that the very issues necessitating treatment would interfere with his ability to obtain it.

***In re A.O.***, (2015) 242 Cal.App.4th 145, Dependency jurisdiction and disposition were taken based on mother's untreated bi-polar disorder. Services were terminated at the twelve-month review. Mother appeals jurisdiction, disposition, the 6-month review findings, and the twelve-month review findings. The Court of Appeal affirms jurisdiction and disposition but finds that reasonable services were not provided because the Riverside Department of Public Social Services failed to help mother obtain the medication she needed to reunify with her daughter. Consequently, substantial evidence did not support the reasonable efforts finding at the six and twelve month review. ). The court stated that "...when it came to obtaining a medication evaluation, DPSS gave mother a referral to a clinic, but never followed up with her once it learned that the clinic had concluded she was ineligible for medication." The case is remanded back to the juvenile court with directions to reverse the finding that mother received reasonable services at the six- and twelve-month review hearings. On remand, the court must order the department to provide reasonable services, which – at a minimum – means services

that give mother a chance to begin a psychotropic medication program. The juvenile court is further directed to provide services for a reasonable amount of time, considering the circumstances existing when the court enters the new order.

**Patricia W. v Superior Court**, 244 Cal. App. 4th 397 (2016) – The 2 ½ year old child was removed from the parents because of mother’s mental health problems (schizophrenia). Services were terminated for the parents at the 6-month hearing. The parents filed a writ – Granted by the appellate court. The court found the agency had not provided reasonable services to the mother. There was no diagnosis of the mother’s mental health issues, the medication that she needed, nor whether and how the parents could manage and monitor mother’s medications to avoid another relapse. Citing *In re K.C.*, the court stated [The agency] “must make a good faith effort to provide reasonable services responsive to the unique needs of each family [and] designed to eliminate those conditions which led to the juvenile court’s jurisdictional finding.” “It would appear that a diagnosis of schizophrenia should be the court’s starting point, not its conclusion....the diagnosis should lead to an *in-depth examination of her psychiatric history, her present condition, her previous response to drug therapy, and the potential for future therapy with a focus on what affect her behavior has had, and will have, on her children.*” (the court’s italics). The agency took none of these steps. Remanded for additional reunification services.

## 6. Effectiveness of Services (Meeting the Parent’s needs)

**In re D.N.**, 56 Cal. App. 5<sup>th</sup> 74 (2020) - the juvenile court should have granted a father’s continuance request, even though the statutory deadline for reunification services had long passed. The court had the authority to extend family reunification services beyond 24 months. There was good cause for the continuance because it was in the best interest of the child, a teenager, who was failing in group and foster care homes, and the father, who had been unable to find housing because of his poverty and despite sincere effort, needed at least some additional time to obtain suitable housing. Under Welfare & Institutions Code, § 361.5, lack of affordable house was an external force over which the father had no control.

**In re J.P.** (2017) 14 Cal. App.5<sup>th</sup> 616 – Father from Myanmar (Burma) had a serious alcohol abuse problem. At disposition the court ordered alcohol treatment, however, there were no Burmese speaking counselors available. The appellate court held that the juvenile court has an obligation to provide access to services. The case was remanded to the trial court.

**In re Kristin W.** (1990) 271 Cal. Rptr. 629, 222 Cal. App. 3d 234, 254 - Reunification services for father and his 3 children were terminated. Father filed a writ. The writ was granted by the

appellate court. The children were removed due to school attendance problems, poor hygiene, and dirty house. The mother's whereabouts were unknown. The children were placed with their grandmother. When she died, the children were placed with neighbor and father was given a new service plan. Father refused to sign plan and filed a writ. The appellate court granted the writ stating that it is unfair to give father a new service plan on issues that would not support a jurisdictional finding. Father's unemployment was not a proper reason to terminate services. The fact that children were happy in the foster home was not a relevant factor either. Dependency should not "drift" into prolonged attempts to resolve parental shortcomings that are not jurisdictional. On occasion the agency provides services that do not address the problems that brought the child to the attention of the juvenile court. This situation presents another reasonable efforts issue – did the agency provide services that met the parent's needs? Reunification services must be tailored to individual needs of the parent's circumstances. In this case the agency failed to provide father with services to address the problems that brought the children into care (school truancy, poor hygiene and housekeeping problems).

***In re G.S.R.***, 159 Cal. App. 4th 1202 (2008) - Did the services address the problems that brought the child and family to the attention of the child protection agency and the court system? The agency should have crafted a plan to help the father obtain housing instead of the services offered. The court stated: "Reunification services need not be perfect. But they should be tailored to the specific needs of the particular family. Services will be found reasonable if the Department "has identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult..."

***In re Alvin R.***, 108 Cal. App. 4th 962, (2003). "When it appears at the six-month review hearing that a parent has not been afforded reasonable reunification services, the remedy is to extend the reunification period, and order continued services."

***In re Dino E.*** (1992) 8 Cal.Rptr.2d 416, 6 Cal.App.4th 1768, 1777. TPR - Reversed. The appellate court required that the case plan be specifically tailored to fit the circumstances of each family and designed to eliminate those conditions which led to the juvenile court's jurisdictional finding. It was not done so in this case.

***In re Taylor J.***, (2014) 223 Cal. App. 4th 1446; 168 Cal. Rptr. 3d 149 – The trial court terminated reunification services for the mother. The appellate court reversed holding that while the mother did not aggressively follow the case plan, "the foremost blame...lies with DCFS because

it, not the parent or the court, is charged by the Legislature with providing reasonable family reunification services.” “Family reunification services are not ‘reasonable’ if they consist of nothing more than handing the parent a list of counseling agencies when the list contained the name of only one domestic violence victim counseling agency in proximity to Mother’s home. Furthermore, although Mother was ordered to participate in individual counseling, the list did not contain the names of individual counseling agencies.” The mother participated in services that the agency did not approve of, yet the agency did not advise the mother of her error.

## **8. The quality of services provided**

*In re Dino E.*, 6 Cal. App.4<sup>th</sup> 1768 (1992) – TPR - Reversed. The appellate court asked “were the services individualized to the child and family”? Held: They were not. This was a mechanical approach to a reunification plan and not what the legislature intended. The plan must be specifically tailored to fit the circumstances of each family, and must be designed to eliminate those conditions which led to the juvenile court’s jurisdictional finding. “Nobody gave Mr. E. the map. He needed some direction. It wasn’t there.” (at 1777).

*In re G.S.R.*, 159 Cal.App.4<sup>th</sup> 1202 (2008) – Effectiveness of services – did they address the problems that brought the child and family to the attention of the child protection agency and the court system? The appellate court stated that the agency should have crafted a plan to help the father obtain housing.

*In re Daniel G.*, 25 Cal. App. 4th 1205 (1994) TPR – Reversed. The appellate court stated that the services provided were ‘a disgrace’ thus justifying extending services beyond 18 months.

*In re Precious J.*, 42 Cal. App. 4th 1463 (1996) – TPR – Reversed. The appellate court criticized the department for the use of a boilerplate reunification plan. The parent cannot be faulted for not completing services unrelated to the problems that brought the child to the attention of the court.

*In re Kristen W.* (1990) 271 Cal. Rptr.629, 222 Cal.App.3d 234, 254 - The agency must show a “good faith effort to develop and implement a family reunification plan.”

## **9. Oversight**

*Amanda H. v. Superior Court*, 166 Cal.App.4<sup>th</sup> 1340 (Ca. Ct. App. 2008) – TPR – Reversed. Did the agency monitor the service delivery process so that problems were addressed when they occurred? The appellate court held that it did not. The social worker failed to tell mother she



was in the wrong counseling program until the 11<sup>th</sup> hour. It was the duty of the DFCS worker “to maintain adequate contact with the service providers and accurately to inform [Mother] of the sufficiency of the enrolled programs to meet the case plan’s requirements.” (at 1347).

***In re Taylor J.***, (2014) 223 Cal. App. 4th 1446; 168 Cal. Reporter 3d 149; – Services Terminated – Writ Granted. The mother was ordered to participate in DCFS-approved counseling including a domestic violence support group. Over the course of the case the mother participated in services, but the agency concluded that they were not what the court ordered. The appellate court noted that “[f]amily reunification services are not ‘reasonable’ if they consist of nothing more than handing the parent a list of counseling agencies when the list contained the name of only one domestic violence victim counseling agency in proximity to Mother’s home.” DCFS did not investigate to determine whether the services mother enrolled in were appropriate. It was DCFS’s duty “to maintain adequate contact with the service providers and accurately to inform [Mother] of the sufficiency of the enrolled program to meet the case plan’s requirements.” The appellate court remanded the case for further services for the mother.

## **10. Timeliness of Services**

*Amanda H. v Superior Court* (2008) 166 Cal. App. 4th 1340. TPR – Reversed. The timeliness of services – were they delivered in a timely fashion? Were there waiting lists for some/all of the services? In this case the mother was not informed by the social worker until the 11<sup>th</sup> hour that she was participating in the wrong services. This was a failure of reasonable efforts.

***T.J. v. Superior Court*** (2018) A153034 – The 3 children were removed from mother because she was not giving her eldest child needed medications and the house was unsanitary. Services were ordered but were significantly delayed. When services were terminated, mother filed a writ. GRANTED. Because mother was waitlisted for a significant time on critical components of her case plan (individual therapy, in-home counseling, and parent education) and was provided no assistance with in-home support services, anger management or housing, there was no substantial evidence the Agency provided or offered reasonable services to mother designed to meet her special needs. With regard to housing the agency “offered no assistance to her in finding suitable housing or helping her learn basic independent living skills” other than referring her to GGRC which placed her on a waiting list for Brilliant Corners. That referral never provided her with any housing.

## **11. Family Engagement**

***Robin V. v Superior Court***, 33 Cal.App.4<sup>th</sup> 1158 (Cal. Ct. App., 1995); TPR – Reversed. The appellate court asked: Did the agency engage the family so that they would take advantage of the services? No - the social worker only provided stamped envelopes and failed to respond to father’s request for visits. The trial court’s reasonable efforts finding was reversed on appeal.

## **12. Provision of Services –**

***In re J.P.*** (2017) 14 Cal. App. 5<sup>th</sup> 616 – Father from Myanmar (Burma) had a serious alcohol abuse problem. At disposition the court ordered alcohol treatment, however, there were no Burmese speaking counselors available. The appellate court held that the juvenile court has an obligation to provide access to services. The case was remanded to the trial court.

***In re Riva M.*** 235 Cal. App.3d 403; 286 Cal. Rptr. 592, 599 (1991) - TPR – Affirmed. Did the agency provide the parents with what the service plan called for? Father appealed. "[T]he record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult . . ."

***In re Jose F.*** 178 Cal. App. 3d 1116 (1986). Timeliness of Services: - The trial court removed the children from the mother. On appeal - Reversed. The law had changed mandating reasonable efforts to prevent removal. Reasonable services to prevent removal must be offered before children can be removed. The trial court stated: "I don't know what the status of the case would be today if there had been certain kinds of services provided. And perhaps if there had been a different approach taken to the case by the Department of Public Social Services." The appellate court discussed in detail how the agency did not make services accessible for the mother, including excuses offered by the social worker at trial that counseling "could not 'realistically' be considered due to Mrs. V's work hours, the number of children she had and the limited availability of counseling programs for Spanish-speaking persons."

***In re Dino E.***, 8 Cal. Reporter 2d 416, 421 (2002) – A reunification plan must be developed on a case-by-case basis.

***In Re T.W.*** (2017) 9 Cal. App. 5th 339; Dependency. Reunification services ordered for out-of-state father. At six-month review, father appealed the court’s finding that the agency had provided reasonable services. REVERSED! The Court of Appeals held that the initial case plan failed to identify any service providers, there was a lengthy delay in providing a revised case plan with information about services, the belated case plan failed to address the father's need for substance abuse treatment or whether his housing was appropriate, and the services included in the case plan were insufficiently described. Moreover, the father was afforded only

one telephone visit despite his requests for more visitation and the case plan's provision for weekly calls. Although the father's location out of state made the department's provision of services more difficult and the record did not show that the father had actively sought services, the father was nonetheless entitled to reasonable services.

### **13. Services for Incarcerated Parent**

***Earl L. v Superior Court of Orange County*** 199 Cal.App.4<sup>th</sup> 1490 (2011) TPR - Affirmed. The agency did not provide reasonable services to an incarcerated father for some of the 18 months, but that was not a sufficient reason to extend services beyond 18 months because of father's lack of effort.

***In re Brittany S.***, 17 Cal. App. 4<sup>th</sup> 1399, 22 Cal. Reporter 2d 50 (1993) – The court terminated reunification services. A writ was taken by the mother. Writ granted. The appellate court held that the agency failed to provide a tailored service plan for an incarcerated mother. The agency failed to monitor the mother's progress in prison programs or to ask someone at the Department of Corrections about a community treatment program in which the mother sought to participate. Services for mother were unreasonable. No visitation was established even though the mother was incarcerated only 40 miles from where child lived.

***In re Maria S.*** (2000), 82 Cal. App. 4<sup>th</sup> 1032 - TPR - Reversed. The mother was incarcerated and then deported to Mexico upon release. The appellate court held that there was no evidence of services available in prison, and she was deported before she could show compliance with services. Incarcerated parents must be provided with reasonable services that take into account their individual situation. There was no evidence that the agency investigated to determine what services might be provided to the incarcerated mother (about to be deported). Mother was cooperative.

***In re Ronell A.*** (1996) 44 Cal. App. 4<sup>th</sup> 1352 - TPR – Affirmed. The appellate court held that the incarcerated mother received reasonable services. The visitation was limited because the foster parents lived a great distance from the prison (not the agency's fault), mother canceled some visits, and she did not show great interest in reunification. She was also provided with parenting classes and drug rehabilitation and the agency made regular efforts to insure the incarcerated mother was attending classes.

***Mark N. v Superior Court of Los Angeles County*** (1998) 60 Cal. App. 4<sup>th</sup> 996, 1011, 70 Cal. Reporter 2d 603 - Termination of services challenged on a writ. Writ granted. The father was incarcerated and the agency did nothing to provide services stating that the father put himself in jail through no fault of the agency. Termination of services finding reversed per appellate

court on a writ from the father. “With respect to an incarcerated parent, there is a statutory requirement that reunification services be provided ‘unless the court determines, by clear and convincing evidence, those services would be detrimental to the minor.’” The father was not required to complain about the lack of reunification services – it was the agency’s duty to provide them.

***In re Dino E.*** (1992) 6 Cal. App. 4th 1768; TPR – Reversed. An incarcerated father received inadequate services and no reunification plan. Services should be extended past 18-month time limit since the father received inadequate services.

***In re Monica C.***, (1995) 31 Cal. App. 4th 296; - The appellate court held that the incarcerated mother did not receive adequate reunification services. There was no plan for visitation and the social worker required mother to identify services in prison.

***In re Precious J.***, (1996) 42 Cal. App. 4th 1463. TPR - Reversed. After the court ordered visitation between child and incarcerated mother, the agency did not arrange even one visit. Moreover, the service plan failed to address mother’s main issue – her pattern of engaging in petty thefts. The case plan should have included counseling, vocational training, and other services to overcome this problem. Failure to do these things was a failure of reasonable efforts.

***In re Dylan T.*** (1998) 65 Cal. App. 4th 765; Visitation with an incarcerated parent cannot be denied without clear and convincing evidence that such visits would be detrimental to the child. The child’s young age alone is insufficient.

***In re Monica C.***, 31 Cal. App. 4th 296 (1995) TPR – Reversed. The appellate court held that the reunification plan did not provide for visits with the incarcerated mother. The trial court ruling of reasonable efforts was reversed. Moreover, the appellate court held that it is unreasonable to delegate to the parent the responsibility for determining what services were available in prison. The county has an affirmative obligation to provide services and the service plan should attempt to maintain the relationship between the parent and child.

***Robin V. v Superior Court***, 33 Cal. App. 4th 1158 (1995) – The trial court terminated reunification services. Writ by the father - granted by the appellate court for lack of reasonable services. The court held that the social worker had an obligation to review the service plan with the incarcerated father and to give him advice on what he should be doing to secure his parental rights. Also, it was the obligation of the social worker to maintain reasonable contact with the father.

*In re Jonathan M.*, 53 Cal. App. 5th 1234 (1997) - Termination of services. Writ by parents - granted by the appellate court. The parents were incarcerated 250 miles away from their child. The agency had a policy of no visits beyond 50 miles. The court of appeals reversed the trial court's finding of reasonable efforts stating: "A detriment finding cannot be based on geography alone." The appellate court informed the agency to be more creative.

*In re Sabrina N.*, 70 Cal. Reporter 2d 603 (Cal. Ct. App. 1998) – TPR – Reversed. The father was incarcerated for most of the reunification period. The agency failed to contact the prison to determine the availability of services for him, concluding that there was no hope for services. Held: The incarcerated father did not receive reasonable efforts during the reunification period due to the agency's inaction.

*In re Regina V.*, 22 Cal. App. 4th 711 (1994) – TPR – Reversed. While appellant father was incarcerated in a Texas prison, his parental rights were terminated. Appellant sought review of the termination decision, contending that he was denied the effective assistance of counsel during pre-termination proceedings. During the pendency of the appeal, the child's foster parents adopted her. The court reversed the termination order because appellant was denied the assistance of counsel at critical stages of the pre-termination proceedings in violation of Cal. Welfare & Institutions Code § 317(b), (d), and there was nothing in the record indicating that the trial court had good cause to relieve appellant's appointed counsel of his duties. The court also concluded that the trial court erred by determining by a preponderance of the evidence that appellee, the Los Angeles County Department of Children's Services, made reasonable efforts to reunite appellant and the child because Cal. Welfare & Institutions Code 366.21(g)(1) required such a finding to be made by clear and convincing evidence and appellee made only cursory efforts to locate appellant prior to termination.

*In Re T.W.* (2017) 9 Cal. App. 5th 339 -- The Father appeals from the juvenile court's findings at the six-month review that reasonable efforts were provided to him and that active efforts were made to prevent the breakup of the Indian family. The father who was living in Florida was provided and was incarcerated for part of the reunification period. He was given only one telephone call during the 6 month of reunification services. REVERSED. This was unreasonable contact between the child and father.

#### **14. Did the Services Match the Problems that Brought the Child Into Care?**

*In re J.E.*, 3 Cal.App.5<sup>th</sup> 557, (2016)

The child was 14 years old when she was removed from her mother because she was constantly running away, was engaging in self-injurious behaviors, and had molested her younger sister.

Mother told the agency that she could not control the child and did not feel she could keep the child's younger sister safe with the child in the house. Jurisdiction sustained and Mother began engaging in services. Services were found to be reasonable at the 6- and 12- month review hearings. At the 18- month review hearing, the agency recommended termination of reunification services because the child's younger sister was still afraid of the child and therefore, the child could not return home. The juvenile court expressed concern that the child had not received a thorough psychological assessment and had not received any therapy specifically targeted to address her molestation of her sister. Mother was engaging in all services and attended family therapy sessions even when the child was not present. The juvenile court found that the services provided were not reasonably sufficient and that there was a substantial probability that the child could be returned within the period of extended services. The juvenile court extended services to 24 months. The agency appealed. The court of appeal affirmed the juvenile court's order extending services to 24 months. Pursuant to WIC §352, the court has the discretion to continue reunification services to 24 months if there is good cause to do so. The court concluded reasonable services were not provided, that there was a likelihood of success with additional services, the child's need for prompt resolution of dependency and the benefit of further reunification, and any other relevant factors the parties raise. The amendments to WIC §§ 361.5 and 366.22 specifying circumstances in which services may be extended to 24 months do not abrogate the court's discretion to extend services to 24 months. Here, the evidence supported the finding that reasonable reunification services were not provided. The agency must make an effort to provide reasonable services that are tailored to each family's unique needs. In this case, the child did not receive a psychological evaluation despite engaging in self-injurious behaviors. Moreover, the child and her family were not offered specialized counseling to address sexual acting out even though everyone involved agreed that the child's molestation of her younger sister had to be resolved before the minor could go home. The juvenile court did not abuse its discretion. The juvenile court orders affirmed.

***In re Kristin W.***, (1990) 222 Cal.App.3d 234 – Reunification services for father and his 3 children were terminated. Father filed a writ. Granted. The children were removed due to school attendance problems, poor hygiene, and dirty house. Mother's whereabouts were unknown. The children were placed with their grandmother. When she died, the children were placed with neighbor and father was given a new service plan. Father refused to sign plan and filed a writ. The appellate court granted the writ stating that it is unfair to give father a new service plan on issues that would not support a jurisdictional finding. Father's unemployment was not a proper reason to terminate services. The fact that children were happy in the foster home was not a relevant factor either. Dependency should not "drift" into prolonged attempts to resolve parental shortcomings that are not jurisdictional.

***In re Venita L.***, 191 Cal. App. 2d 1229, 236 Cal. Reporter 859 (1987) – Services Terminated – Writ filed and granted – The mother was confined to a mental hospital and the child was removed. The mother recovered, but services were terminated because the father was not involved in Alcoholics Anonymous. The appellate court granted the writ stating that father’s issue was not the reason for the dependency action and would not have supported dependency by itself. The mother had completed her case plan.

#### **15. Parents cannot be Located**

***In re T.G.***, (2010) 188 Cal. App. 4th 687.

Reasonable efforts are not required when a parent does not inform social worker of his whereabouts. The father was incarcerated after the dispositional hearing. He did not inform the social worker where he was and by the time he did, it was too late to develop a service plan.

#### **16. Parents waited too long**

***Armando L. v Superior Court***, (1995) 36 Cal. App. 4th 549

The appellate court held there was no failure of reasonable efforts where the father waited 13 months before engaging in services.

***In re V.C.*** (2010) 188 Cal. App. 4th 521; There was no violation of reasonable efforts when father was incarcerated 14 out of 18 months during the reunification period and when, before incarceration, he did not engage in services.

#### **17. ICWA**

***In re H.E.***, 169 Cal.App.4<sup>th</sup> 710 (Cal. App.2009) – Reasonable Efforts can be offered by the tribe and that can satisfy the state agency’s legal obligation. The parents received support and assistance from tribal social worker including parenting classes, crisis counseling, and therapy with the children. The efforts by the tribe were credited to agency. “...[P]ossible lacuna of five weeks in three months of ongoing efforts to secure a psychological evaluation. Given the total efforts made to prevent removal of the children, a lacuna of that length does not render the overall finding of reasonable efforts unsupported.” The appellate court held that reasonable efforts were expended to prevent removal of the children.

***In re K.B.***, 173 Cal. App. 4th 1275, 93 Cal. Reporter 3d 751 (4th Dist. 2009) TPR – Affirmed. The court did not place the child with the mother because she permitted the father to have contact with the child and he had molested her. Active efforts found. The appellate court held the following to be a useful guideline: "Passive efforts are where a plan is drawn and the client

must develop his or her own resources towards bringing it to fruition. Active efforts . . . is where the state caseworker takes the client through the steps of the plan rather than requiring that the plan be performed on its own."

***In re Michael G.***, 63 Cal. App. 4th 700, 74 Cal. Reporter 2d 642 (4th Dist.,1998) - the court held that the active efforts requirement under § 102(d) of the ICWA (25 U.S.C.A. § 1912(d)) is essentially identical to reunification services under California law. Nevertheless, the court advised, two separate findings are required: (1) under state law, that reasonable reunification efforts were made; and (2) under § 1912(d), that active efforts involving Indian resources were made.

***Letitia V. v. Superior Court***, 81 Cal. App. 4th 1009, 97 Cal. Reporter 2d 303 (4th Dist. 2000) – No reunification services ordered – Affirmed. The court noted that the mother had a long history of substance abuse and had received services for another child. Held that the active efforts provision of § 102(d) of the ICWA (25 U.S.C.A. § 1912(d)) seemed to require only that timely and affirmative steps are taken to achieve the goal of preventing the breakup of an Indian family.

***In re Riva M.***, 235 C.A.3d 403 (1991) – TPR – Affirmed. The father was a non-Indian, and the mother was Indian. The appeal alleged that the court did not follow the ICWA, that proof beyond a reasonable doubt was not produced and there was no expert Indian testimony. The appellate court ruled that all those issues were waived because no objections were made during the trial.

***In re A.A.***, 167 Cal. App. 4th 1292 (Cal. App.2008) – TPR –Affirmed. The court also held that sufficient evidence supported a finding that the agency provided active efforts for remedial services and rehabilitative programs designed to prevent the breakup of an Indian family, despite a delay in placing the children with their relatives.

***In re K.B.***, 173 Cal. App. 4th 1275 (Cal. Ct. App. 2009) – TPR – Affirmed. Active efforts were not required for the father since he was a sexual abuser. The agency offered active efforts to the mother, but she refused to leave the father.

***Adoption of Hannah S.***, 142 Cal. App. 4th 988 (Cal. App. 2006) – TPR of Father’s parental rights denied at trial court. Reversed on appeal. Because the trial court failed to apply the proper standard in determining whether the mother had complied with the requirement of 25 U.S.C. § 1912(d) to show active efforts and did not consider all the evidence when determining whether continued custody would damage the minor, reversal was required. The mother had not given



up on the father, an alcoholic, until he relapsed twice and committed serious crimes against her. The mother could not be expected to be responsible for further attempts to alleviate the father's alcohol abuse and violence or to foster a parent-child relationship between the minor and the father when the father, despite the mother's prior support and understanding, perpetrated a vicious attack upon her that resulted in his incarceration and a lifetime restraining order. The father's acts demonstrated his inability to provide a healthy parent-child relationship with the minor.

***In re A.L.*** 243 Cal. App. 4th 628 (12/21/15) — Mother challenged the agency's failure to provide active efforts at the final review hearing. The court held mother was foreclosed from raising the issue since she did not do so by extraordinary writ earlier in the case. However the language of W & I §366.26(c)(2)(b)(i) states that the active efforts issue must be raised at the permanency planning hearing. The trial court prevented counsel for the mother to explore this issue at the hearing and that was error. The error, however, was harmless and the TPR is affirmed.

***In Re T.W.*** (2017) 9 Cal. App. 5th 339 -- The Father appeals from the juvenile court's findings at the six-month review that reasonable efforts were provided to him and that active efforts were made to prevent the breakup of the Indian family. The father who was living in Florida was provided only one telephone call during the 6 month of reunification services. REVERSED. This was unreasonable contact between the child and father. Nor did the agency provide Active efforts. NB: the court described active efforts as the same as reasonable efforts and did not mention the federal guidelines.

## **18. Counseling**

***In re M.F.*** (2019) 32 Cal.App.5<sup>th</sup> 1 – At the 12-month review, the court found that the agency had not provided adequate therapy and made a “no reasonable efforts” finding. The minor appealed, but the appellate court affirmed the trial court's findings. The issue was whether the court could extend services beyond the 18-month review. The appellate court stated that without a finding of reasonable efforts, the court must give the father additional services and ordered the department to provide therapy immediately.

***In re J.E.***, 3 Cal. App. 5th 557 (2016) The child was 14 years old when she was removed from her mother because she was constantly running away, was engaging in self-injurious behaviors, and had molested her younger sister. Mother told the agency that she could not control the child and did not feel she could keep the child's younger sister safe with the child in the house. Jurisdiction sustained and Mother began engaging in services. The court found that services

were reasonable at the 6- and 12-month review hearings. At the 18-month review hearing, the agency recommended termination of reunification services because the child's younger sister was still afraid of the child and therefore, the child could not return home. The juvenile court expressed concern that the child had not received a thorough psychological assessment and had not received any therapy specifically targeted to address her molestation of her sister. Mother was engaging in all services and attended family therapy sessions even when the child was not present. The juvenile court found that the services provided were not reasonably sufficient and that there was a substantial probability that the child could be returned within the period of extended services. The juvenile court extended services to 24 months. The agency appealed.

The court of appeal affirmed the juvenile court's order extending services to 24 months. Pursuant to WIC §352, the court has the discretion to continue reunification services to 24 months if there is good cause to do so. The court concluded reasonable services were not provided, that there was a likelihood of success with additional services, the child's need for prompt resolution of dependency and the benefit of further reunification, and any other relevant factors the parties raise. The amendments to WIC §§ 361.5 and 366.22 specifying circumstances in which services may be extended to 24 months do not abrogate the court's discretion to extend services to 24 months. Here, the evidence supported the finding that the agency did not provide reasonable reunification services. The agency must make an effort to provide reasonable services that are tailored to each family's unique needs. In this case, the child did not receive a psychological evaluation despite engaging in self-injurious behaviors. Moreover, the child and her family were not offered specialized counseling to address sexual acting out even though everyone involved agreed that the child's molestation of her younger sister had to be resolved before the minor could go home. The juvenile court did not abuse its discretion. The juvenile court orders affirmed.

***In re Alvin R.***, 108 Cal.App.4<sup>th</sup> 962 (2003) – Appeal of finding that reasonable services had been provided. Reversed. The appellate court stated that the key to the original reunification plan was that father and Alvin participate in conjoint counseling so that visitation could take place, but only after Alvin had received eight sessions of individual counseling. The Department did not arrange for those sessions. Thus, the Department effectively abdicated its responsibility to effectuate timely individual counseling for Alvin, which precluded father from participating in conjoint counseling with Alvin. The juvenile court became aware of the delay and ordered that conjoint counseling proceed, when appropriate, even if Alvin had not completed eight individual counseling sessions. The Department again failed to take timely steps necessary to have father and Alvin begin conjoint counseling. The resulting delay effectively precluded any meaningful visitation between father and Alvin while the statutory time periods contemplated for completion of the reunification process were running. “The remedy for a failure to provide

reasonable reunification services is an order for the continued provision of services, even beyond the 18-month review hearing.” (at 975).

***In re Laura F.***, 33 Cal. 2d 826, 6622 P.2d 922, 191 Cal. Rptr. 464 (1983) – TPR – affirmed. The court found that the agency provided reasonable efforts by counseling the parent on the changes required to regain custody of the child.

#### **19. Reunification Plan**

***In re Michael S.***, 188 Cal.App.3d 1448 (1987) – Appeal from an order terminating services and ordering no further services. Reversed. The appellate court ruled that further reunification services were appropriate. Absent aggravated circumstances a reunification plan must be ordered by the court after a child is removed from parental custody.

#### **20. Standard of Proof**

***In re Monica C.***, 31 Cal. App. 4<sup>th</sup> 296, 306 (1995) - Any finding that reasonable services have been offered must be supported by clear and convincing evidence.

#### **21. Reasonable Efforts and Termination of Parental Rights**

***Armando L., Sr. v. Superior Court of Los Angeles County***, 36 Cal. App. 4<sup>th</sup> 549 (1995) - The state cannot initiate termination of parental rights unless the court finds reasonable services have been made or offered.

#### **22. Good Faith Effort**

***In re John B.***, 159 Cal. App. 3d 268 (1984) – Services to prevent removal and provide reunification support were not offered. Reversed. Appellant mother had an extensive history of psychiatric problems and her other three children were declared dependents and permanently placed in non-maternal custody after reunification efforts failed due to appellant's deteriorating mental state. After the birth of the subject child, the trial court declared him dependent, referred him for permanent placement, and ordered monthly, supervised visitation. The court reversed the decision because the trial court did not comply with the mandatory family reunification objective. A good faith effort to develop and implement a family reunification plan is required.

#### **23. Failure to State Facts Supporting a Reasonable Efforts Finding**

***In re Ashly F.***, 225 Cal.App.4<sup>th</sup> 803 (2014) – Removal of children – Reversed. The mother seriously beat one of her children using an extension cord. Other incidents of physical abuse had occurred. The court removed the children at the detention hearing. The trial court found that “reasonable efforts have been made to prevent or eliminate need for [the children’s]

removal from home.” The trial court did not identify or describe those “reasonable efforts” were, nor did the court inquire into the availability of services “that would prevent or eliminate the need to detain the child or that would permit the child to return home” as required by California Rules of Court, rule 5.678(c)(2). W & I §361(d) requires the court to make a determination whether reasonable efforts were made to prevent or eliminate the need for removal of the minor from his or her home and that the court “shall state the facts on which the decision to remove is based.” The court did not do this, thus making the finding “merely a hollow formula designed to achieve the result the agency seeks.” “A finding of parental abuse is not sufficient by itself to justify removing the child from the home.”

***In re D.P.***, 44 Cal. App. 5<sup>th</sup> 1058 (2020) – Dependency removal – Reversed. The judge sustained a dependency petition which involved the mother’s violence towards the father, her substance abuse, and mental health difficulties. At the dispositional hearing the judge removed the child from the mother’s care and placed the child with the father. The court referred to Dependency Court Order 415 (apparently a local court order created to encompass findings for federal and state law purposes). However, the judge did not comply with W & I §361(e) by failing to state the facts supporting the removal. Moreover, the judge did not state the reasonable efforts supplied by the agency in support of the removal, citing ***In re Ashly F.***

#### **24. Aggravated Circumstances**

***In re Lana S.***, 207 Cal. App. 4<sup>th</sup> 94 (Cal. App. 2012) – TPR and bypass of reunification services appealed. Trial court findings affirmed. The appellate court found that the fact that the mother had lost three older children to termination, that she had a lengthy history of drug abuse, denied having a drug problem, refused to voluntarily test, refused to enter a drug treatment program, that drug paraphernalia was found near the children, and that her live-in boyfriend was a heroin addict comprised sufficient grounds to deny her reunification services and terminate her parental rights.

***In re T.M.***, (2009), 175 Cal. App.4<sup>th</sup> 1166 - TPR – Reversed. The mother’s whereabouts were initially unknown. When she was located, no plan was developed because mother was in a psychiatric facility. The appellate court stated that the trial court neither offered services nor found statutory support for a waiver of services, the case was remanded and the trial court was limited to a permanent plan of guardianship or long term foster care.

***In re Rebecca H.***, 227 Cal.App.3d 825 (Cal. App. 1991) – Denial of Reunification Services – Reversed. The agency petitioned the court to deny reunification services to the father because of his mental disability. Two doctors testified that father had a mental disability, but was motivated and needed time (a year) to be able to care for his child. The appellate court

reversed the trial court finding that the mental disability did not make the father incapable of using reunification services and that a year was a reasonable time.

## **25. Services for a Parent in a Foreign Country**

*In re A.G.*, 12 Cal. App. 5th 994 (2017) – The Father was deported to Mexico for assaulting the mother. The children were removed from the mother, then returned to her, then removed again. The father was offered reunification services. At the 12-month hearing, the court found that the agency offered reasonable services to the father. The court found that the father was deported because of his conduct and services were not available in Mexico. REVERSED. There is no “Go to Mexico, lose your child” rule in California. Parenting education classes were available in Mexico, frequent visitation was an option, and the agency did not assist the father in identifying services in Mexico as required by WILC §361.5(e)(1)(E).

## **26. Extending Services Beyond the 18 Month Limit**

*In re M.F.*, 32 Cal.App.5<sup>th</sup> 1 (2019) – At the 12-month review the trial court found that the agency had not provided reasonable efforts to facilitate reunification. In particular, the court found that the agency had not provided counseling and therapy for the father. The minor appealed and the appellate court affirmed the “no reasonable efforts” finding and further held that without reasonable services, the proceedings must be continued so that the father would receive those services.

*In re Michael. G.* 69 Cal. App. 5<sup>th</sup> 1133 (2021) – At the 18-month review the trial court found that the agency had not provided reasonable efforts to the father to reunify with his daughter. However, the trial court also found that the time for services had run and concluded that the law did not permit services to continue further. The court terminated services and set a hearing pursuant to Welfare and Institutions Code section 366.26. The father appealed and the court of appeals affirmed the trial court’s orders terminating services. The case is currently (2022) on appeal to the California Supreme Court which has granted a hearing.

## **C. REASONABLE EFFORTS TO FINALIZE A PERMANENCY PLAN**

### **1. Delays in the Adoption Process**

*In re Daniel G.*, 25 Cal. App. 4<sup>th</sup> 1205 (1994): If the department of children’s services felt services should not have been provided, it should have brought the matter to the court’s

attention at disposition hearing. Otherwise, it had a duty to make good faith effort to provide services. (at 1216).

## 2. Adequacy of Services

*In re Christian K.*, 21 Cal. App. 5<sup>th</sup> 620 (2018) A permanent plan of adoption had been ordered by the juvenile court. The proposed adopting family lived overseas. The attorney for the child argued that the child needed additional therapy, alleging inadequacy of services for the child. The court permitted the child to join the adopting family. HELD: No abuse of discretion and no failure to provide reasonable services to complete the adoption. Citing WIC §366.3(e)(6), the appellate court found that the trial court had the discretion to issue any appropriate order to protect a child's stability and to expedite the child's permanent placement – which may or may not include further services – regardless of whether services are found to have been wanting.

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### COMMENTARY

“California courts regularly make appropriate reasonable efforts findings” Table 3.24 “Summary of Title IV-E Findings and Orders: Judicial Review & Technical

Assistance Project Database 2002-2004,” *California Juvenile Dependency Court Improvement Program Reassessment: Executive Summary*, California Administrative Office of the Courts, Center for Fam

ilies, Children & the Courts, San Francisco, June, 2005, at p. 8.

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“I have been on the bench for 15 years and I think it has been raised less than ten times. I have never made a finding about a lack of reasonable efforts. If there was an issue all parties stipulated to continue services and set for further hearing.” (email to author from a California juvenile court judge).

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“As for your question: Sadly, the attorneys seldom addressed reasonable efforts. I wish they would. My take is that Reasonable Efforts, like “Active Efforts” in the ICWA context, is relegated to meaningless verbiage for the judge to recite like an incantation primarily to preserve funding.

I tried to make it my practice to bring it up on my own, especially as it is uniformly part of the report's recommended findings. I consider it the heart of the Court's continuing authority to interfere in family decisions. In my own simple minded way, I think the Title IV requirement deserves much more than the dismissive treatment it usually gets. Unless there is robust parent

advocacy, it falls to the court alone to ask 1. Why is removal necessary?, 2. What was done to prevent removal? What will be done to make it possible to return the child to the parents? It seems to fall to the Court also to know what is available in terms of services in the community, and in assessment tools, to identify appropriate measures. I also struggle with the conclusory declaration of risk, e.g. "The child is at risk . . . due to mother's drug addiction." It is difficult to articulate specific risk of specific harm, and much more difficult to articulate how a specific service or intervention will address the specific risk.

At the initial hearing, counsel are seldom armed with informed parent clients, and agency staff may have only the barest of emergency response reports. When the Court makes pre-removal services important, it becomes easier to articulate whether there is a true risk of harm, that only removal can relieve. There is no excuse for not addressing the same analysis at jurisdiction and surely at disposition, and every review thereafter."

Email from Judge Juan Ulloa, Superior Court, Imperial County, California

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"When I was in (Lancaster) I made about 50 no reasonable efforts findings (4 in one week on the same worker). They were all during the reunification process. One was appealed and the court of appeal denied it with a lengthy 40 page opinion. One was done as a rehearing and granted, but it took 6 months to do the hearing. In Monterey Park (main L.A. courthouse) reasonable efforts are litigated at least 2-3 times/month. I find no reasonable efforts about 2-3 times during a 4-6 month period. I rarely make these findings at dispo. or detention. I think there will be more findings because as the lawyers become more familiar the social workers they will realize who the poor social workers are."

Email to author from a Los Angeles County juvenile court judge.

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"I probably get a 'no reasonable efforts' argument once a week. Often with respect to services for incarcerated parents." (Email to author from a California juvenile court judge)

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"WIC 319 is instructive with respect to the initial hearing. WIC 319(d)(1) states: "The court shall also make a determination on the record, referencing the social worker's report or other evidence relied upon, as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from his or her home,.... and whether there are available services that would prevent or eliminate the need for further detention. Services to be considered for purposes of making this determination are case management, counseling, emergency shelter care, emergency in-home caretakers, out of home respite care, teaching and demonstrating homemakers, parenting training, transportation, and other child welfare services authorized by

the State Department of Social Services. The court shall also review whether the social worker has considered whether a referral to public assistance would have eliminated the need to take temporary custody of the child or would prevent the need for further detention."

"In other words, are there any services that would allow the child to safely remain in the home? We must force DCFS to answer this question in each and every case. There are obviously many cases where the answer is clear and the child needs to be removed. However, there are a significant number where these questions need to be carefully considered and documented. It is up to our judicial officers, hopefully with some advocacy from the lawyers to make sure these questions are considered and answered in a meaningful way. If there are services that will allow the child to **safely** remain in the home, we must make sure they are offered. Hopefully, fewer children will be removed and the life of the case will be shorter or fewer cases will be filed. the bottom line here is that we must try to ensure good social work practice so that the dept maximizes its efforts to **safely** divert families from the system so that the court resources can be utilized in those cases of serious abuse and/or neglect which clearly require court intervention and those cases where appropriate services have actually been provided or offered and have not been accepted or worked.

"Previous efforts have shown that this kind of consistent effort on the part of our courts have helped. I reference each of you to the NCJFCJ Benchcard (attached) and the power point which referenced its positive impact. What I am suggesting here will not fix everything. But it can help set the proper tone in our court's which can push this system more in the direction of where it needs to go."

Memo from Judge Michael Nash, Presiding Judge of the Los Angeles County Juvenile Court, to the bench officers in the Los Angeles Juvenile Dependency Court, May 29, 2013. A copy is available from the author.

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"Courts must oversee the quality and timeliness of the provision of services to prevent removal, maintain and reunify families, and finalize a permanent plan, and must enter appropriate 'reasonable efforts' findings. It is recommended that, to improve the quality of these services, the Judicial Council encourage courts to make informed findings regarding reasonable efforts." *California Juvenile Dependency Court Improvement Program Reassessment: Executive Summary*, California Administrative Office of the Courts, Center for Families, Children & the Courts, San Francisco, June 2005, at p. 8.

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“They can argue reasonable efforts both at the initial detention hearing as well as at the dispositional hearing. Interestingly enough, in my first year here in dependency, I have not yet see one challenge to reasonable efforts at detention or disposition. But plenty of reasonable services challenges at the six and twelve month review hearings!”

Email to author from Judge L. Michael Clark, Superior Court, Santa Clara County. 11/13.

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Reasonable Efforts in dependency cases.

“Do you ask about them on your own or wait for the attorneys to ask?”

“I ask about what efforts were made to handle the case informally if it is a neglect petition (drugs, incarceration of parent, clear poverty related issues and mental health). For the shaken babies, battered babies and sex cases (less than 20 percent) I do not generally probe this way. I want to see that informal services were offered if there is no significant criminal or CPS history.”

“Do you ask about "reasonable efforts to prevent removal? “

“Yes- see above. “

“Do you have interim hearings to check to see that the service plan is working?”

“We have a 45 day interim hearing after we dispo the case to make sure that the SW has made all referrals and that the parent has been given full opportunity to engage. Sometimes the parent needs a bus pass or funding to get services so we problem solve at the 45 day review. We also inquire as to whether a 90 day review should be set in order to consider return. I also ask about concurrent planning at the 45 day review if that was not intact at the dispo. That child should be in a concurrent home by the 45 day review if not sooner. “

“Will you adjust if it is not?”

“We adjust to meet the needs of the case. I will set more interim hearings as necessary. Sometimes the Department requests that I allow an oral report if it is a quick turn-around. I do.”

“How do you use the CCC benchcards?”

“I use the CCC Benchcard just like the Resource Guidelines, at each hearing to make sure that I am covering all of the areas that can assist in early resolution of the case with the least restrictive placements. The elimination of bias is the goal, as well as a thorough initial hearing that fully considers all possible alternatives to removal. I also recommend distributing the CCC

Benchcard to all stakeholders so that they can be prepared to answer the court's questions and can be on board with using a bias-free lens at all points of the case.”

“Yes. We often spoke about services. You have to recall we had the model court so we had to commit to three improvements per year. We were always talking about how to improve outcomes for our families.”

Two emails from Judge Katherine Lucero, Superior Court, Santa Clara County, California.

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“Lawyers often fail to raise reasonable efforts issues, even when courts may be predisposed to make such findings. The following reasons are the most common:

1) Return is not an option: For some lawyers, the concepts of return vs. lack of reasonable efforts are difficult to distinguish. And when a child cannot be returned, whether the reasons why are known to everyone or only the parent's attorney, focusing upon the reasonable efforts finding can actually be counter-productive. Lawyers do not like to upset their judicial officer by raising issues that will have no practical impact on the result of a hearing, especially when calendars are crowded, and other critical issues need to be argued and decided at the hearing (such as visitation, particular service referrals, and relative assessments).

2) Federal funding: Some lawyers fear that the agency will lose federal funding if a lack of reasonable efforts finding is entered, especially at the initial detention hearing. While this is not necessarily the case (especially if the child is not eligible for IV-E reimbursement), lawyers - especially those representing children - often believe it's better to allow the court to make this finding in order to ensure necessary funding will be available for their clients in the future. These myths are rarely dispelled by the agency (after all, they have a lack of incentive to do so), and training and technical assistance on this issue is rare throughout the country.

3) Lawyers don't know what they don't know, and they believe what they are told: There are no baseline standards in this country that define reasonable efforts. This was a deliberate decision made at the federal level in order to allow judges in each community to define what is reasonable in his or her jurisdiction. In addition, unlike child welfare workers, lawyers receive no specialized training in how services impact risk and safety. Child welfare agencies are funded and charged with the responsibility of finding appropriate service providers and making reasonable efforts. When they report that they have offered what is available in the community and cite a lack of fiscal resources to do more, lawyers are

rarely in a position to question those assertions. This is especially true at the hearings themselves, where the agency representative present is never the one with the decision-making authority over how agencies expend funds or contract with providers. And while courts and judicial officers are sometimes able to obtain answers to questions relating to fiscal expenditures and resource allocation, agency representatives have no incentive to share that information with an attorney for a parent or child. Finally, without statutory or appellate guidance regarding what actually constitutes a lack of reasonable efforts, lawyers are left to argue common sense notions based upon anecdotal experiences, which may or may not carry weight with a judicial decision-maker. For example, while some courts will order agencies to make in-home/unannounced visits to ensure proper supervision or danger-free homes, other courts believe such orders are outside the scope of their authority.”

Email to author from David Meyers and John Passalacqua, attorneys who specialize in the representation of parents in child protection cases - dated 12/6/13. .

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“As minor’s counsel I usually don’t raise the reasonable efforts to prevent removal issue, although sometimes I have agreed with parent’s counsel who have raised it during detention. I seem to recall one case where the parents were very poor, and there might have been alternative housing available. I believe they are usually raised during “dirty home” cases, where the parents are impoverished, and finding alternative housing might be a possibility. It is, I think, a neglected provision which could be very effective if utilized in a contested detention proceeding.

“I have never seen a judge raise the reasonable efforts to prevent removal issue *sua sponte*, although I do remember Judge Harry Elias (County of San Diego, North County Regional Center), raising it on occasion.

“I have however, used and litigated the *reasonable services*\ *reasonable efforts* issue related to reunification services. In fact we had a rather extensive trial on one where I actually litigated the fact that the minor had not received reasonable reunification services because of the delay in treatment. We fought it out and the court ultimately ruled that there had been an “appalling” breakdown in communication, but that the services were reasonable.”

Email from Kelly Ranasinghe, Minor’s counsel in Imperial County, California.

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