



# What Do Judges Want?

By Judge Constance Cohen, Fifth Judicial District of Iowa



*First, a disclaimer: if you ask three judges you get three answers...or more. The opinions expressed in this article are those of the author only and may not coincide with the opinions of other judges. With this caveat, I offer some information I hope will be helpful to you as you navigate the strange waters of Juvenile Court.*

There is a growing body of resources available to you to guide you in your journey. You may already be aware of these, but I will specifically commend to you “Handbook on Juvenile Court for Parents”, available in English and in Spanish on two websites: [www.judicial.state.ia.us](http://www.judicial.state.ia.us), Self Help, Juvenile Court, Parent’s Juvenile Court Handbook, and [www.middleton.drake.edu](http://www.middleton.drake.edu), and “Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases”, by the National Council of Juvenile and Family Court Judges. Their website is [www.ncjfcj.org](http://www.ncjfcj.org). The former is Iowa specific, the latter is a national “bible of best practice”, which inspired the Adoptions and Safe Families Act of 1997. Both publications are very user friendly.

You should also be aware that through the Iowa Children’s Justice Initiative, formerly known as the Iowa Court Improvement Project, leaders in child welfare and the courts have been collaborating since 1995 to raise the bar for dependency cases on many fronts. For example, because of the project’s efforts, Iowa proudly lays claim to the most efficient expedited appeals process for Child in Need of Assistance and Termination of Parental Rights cases in the United States. Current task forces are addressing issues of notice to foster parents and opportunity to be heard, as well as developing tools and protocols for effective communication between foster care providers and the Court.

When meeting with foster parents, there is a common refrain of certain questions and concerns. I will address a few of them in an effort to shed some light from one judge’s point of view.

## **What can I do to get my foster child’s attorney/GaL to meet with him/her?**

Iowa Code Section 232.2(6)(22)(b) enumerates the duties of a guardian ad litem. Unless the Court has otherwise enlarged or circumscribed these duties, the GaL has a statutory responsibility to conduct in-person interviews with age appropriate clients prior to any court hearing and to visit the home and/or residence of the child and any prospective home or residence, including each time placement is changed. Additionally, lawyers have an ethical obligation to represent their clients zealously within the bounds of the law. There is no authorization for any GaL/attorney to rely on second hand information. Judges have a responsibility to assure that the spirit and letter of the law are followed.

That being said, the necessary and proper contact does not always occur. Foster parents are generally in the best position to know whether these duties are being fulfilled. While it can be awkward to bring lack of diligence to the attention of the Court, it must be done. Remember that adequate representation is an entitlement under Iowa law. We would never expect the State or any party to pay for the services of a criminal lawyer if she didn’t meet with her clients. We would never expect to pay a lawyer to represent our interests in a lawsuit if he didn’t attend depositions or case staffings. Why should dependent children receive anything less?

Foster parents can be proactive in connecting children to their representatives. At court hearings, staffings, family team meetings, etc., give the GaL your contact information and make an appointment for her to visit your home. Or, call the attorney and make an appointment at his office, just as you would for yourself if you needed to update your will.

If your efforts fail, you need to be sure that the judge is informed. You could state that the GaL has not yet been to your home to visit the children in the attached report form (Foster Parent Report to the Court), or document the times you called to set up appointments and the response you received. When you are involved in a case, attending hearings, family team meetings, etc., you will get a feel for who the “champions” are. Perhaps it is the County Attorney, the DHS worker, or a parent’s attorney. Let them know that the problem exists. They may have strategies that could remedy this problem. The judge should be asked authorize out of county travel, if necessary, and to order the contact by a date certain, e.g., “the GaL shall visit the children where they reside within 14 days”.

Remember that most attorneys who choose to represent children do an outstanding job. Some are overworked, with unrealistically high caseloads. A public defender was once heard to say that she counted the children on her caseload, and when she reached 458 she stopped counting. She was in court every day, covering two counties. In doing the math, there simply is not enough time to do all that needs to be done. Decision makers need to assure that the resources necessary to comply with the law are available.

### **What information am I entitled to receive?**

Iowa Code Section 232.147(3)(g) allows foster parents to inspect official juvenile court records in CINA cases without a court order. However, remember that Iowa Code Section 237.9 prohibits foster parents from further disclosure of this confidential information.

Iowa Code Section 232.97(3) entitles foster parents to information that the child has behaved in a manner that threatened the safety of another person has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse, unless otherwise ordered by the court.

### **How do I effectively communicate information to the judge?**

First and foremost, come to court! Foster parents have a right to adequate notice of hearings and a right to be heard. Iowa Code Sections 232.88 and 232.91 list foster parents among those as persons who are entitled to receive notice of a hearing and to an opportunity to be heard. If you are not receiving notice of the proceedings, take the initiative to find out why. Start with the DHS worker. The Court does not always know if a child has been transferred from one foster home to another, and you may not get notice if a hearing has been rescheduled. When a child comes to your home, be sure to ask the worker when the next hearing is scheduled.

If there are safety concerns they can be addressed with adequate preparation. Be sure to share any information you may have with the DHS worker or one of the attorneys. For example, if you observe odd behavior or an odor of alcohol from anyone who will be attending a hearing, let the judge know. You need not be the one to tell the judge; court personnel or an attorney involved in the case should report it to the judge. Precautions can then be taken to assure everyone's safety and preserve the dignity of the proceedings. An ounce of prevention is worth a pound of cure!

If the parents have been confrontational, the judge can be asked to delay their release from the courtroom until others have had an opportunity to get on their way. Separate waiting areas can be arranged. Contact information can be held confidential upon request.

There is no prescribed method by which judges receive information from foster parents. Generally, the court will be offer an opportunity to make an informal statement. However, if an attorney objects to this informality, they may be called as sworn witnesses.

Judges value objective information. For example, it is much more helpful to keep a log of the parents' visits than to say mom is always late. Instead of saying the parents don't seem to care about the child's well being, describe your observations: "Child's diaper was soaked after the visit"; "Dad called at 10:00 p.m. three times last week. Child goes to bed at 8:30 on school nights." Avoid value judgments; they build barriers. Avoid interpreting and concluding; that is the job of the finder of fact. As they used to say on Dragnet, "Just the facts, ma'am."

Some courtrooms are now utilizing forms for foster parents to report information to the court. Copies of the foster parent's and child's report forms will be included with this article.

### **The parents won't stop using drugs. Why are they still allowed visitation?**

Family time should not be used as a punishment or reward. The relevant inquiry is the best interest of the child. Under Iowa Code Section 232.107, unless the court finds that substantial evidence exists to believe that reasonable visitation or supervised visitation would cause an imminent risk to the child's life or health, the court must allow the child's parent reasonable visitation or supervised visitation.

### **Are hearings open to the public?**

In a word, yes. However, while the presumption is that juvenile court delinquency and dependency proceedings are open to the public, exceptions do apply. Iowa Code Section 232.92 authorize the court to exclude the public if the court determines the possibility of damage or harm to the child outweighs the public's interest in having an open hearing. Any party wanting to convince the court that the hearing should be closed should be prepared to present evidence by way of testimony.

In conclusion, judges want current, reliable, objective information on which to base critical decisions. Foster parents, who are responsible for the children 24/7, have essential information. In order to make decisions that protect a child's safety and well-being, judges must be able to rely on your input. Judges don't like surprises. Updated relevant information should be shared with all parties well ahead of the hearing so that everyone is prepared to address current issues. If there are recent updates that followed deadlines for submission of reports, make every effort to share that information as soon as possible. Surprises cause delays. And, delays do not serve the best interest of children.