

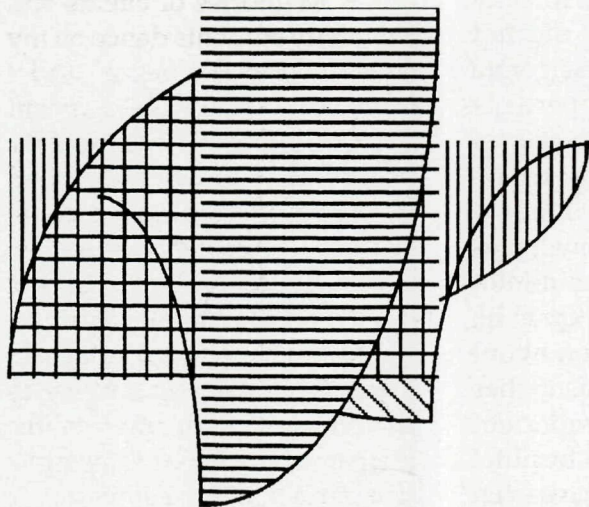
## REDISCOVERING MY SOCIAL WORK ROOTS: A Professor's Odyssey to the Practice of Juvenile Law

*I trace my odyssey from my early years as an academic failure and a "disgrace to the Irish" to the profession of social work, an academic life, and to graduation from law school and the practice of juvenile law. My life-long quest for self-respect, largely and finally achieved, and the need to be of service to others and to make a difference again, provides my life with meaning that led me into the arms of social work 30 years earlier. The practice of juvenile law has resulted in new appreciation for the importance of the social work profession and the essential and valuable services of my social work colleagues. My debt to my law and social work profession is being repaid, I hope, through my work as an academic, in the classroom, and in the practice of juvenile law.*

by James G. McCullagh

### PROLOGUE

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My life has changed dramatically — and yet it's not obvious — since the day I decided to apply to the state law school. Doing more of the same at the University just didn't make sense any more. I had just been promoted to Full Professor, having discharged my obligations with the requisite quantity (and perhaps quality) of publications, served on (too many) committees, and received student ratings sufficient to satisfy the Assessment Committee and the various administrators at each of the levels up to the Board of Regents. The struggle for acceptance and recognition from my initial letter of appointment as an Assistant Professor to promotion as Full Professor was not cause for celebration, just relief tinged with sadness and hurt I had arrived

at this point and place with mixed feelings - so many positive but also many negatives for this transplanted kid from New York City and San Francisco.

I would retire here within 10 to 15 years or "drop dead" from a heart attack. My cardiologist had often told me I had heart problems. I was having a "mid-life crisis," my son had commented thoughtfully, after I had shared numerous feelings and thoughts with my wife and son. My existential despair presented an opportunity for self-examination and assessment. I could continue doing more of the same. I would get my one to three published articles per year and modest merit increases. So what! Cranking out papers didn't seem to matter anymore. Yet, I didn't want to drift, nor despair, nor become embittered.

Becoming an attorney had been a dream since I was 15 years old and first met my future  
Could I get a decent score on the

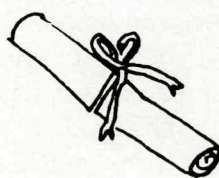




brother-in-law, then a second-year law student. But I knew, as did he and everybody else who counted, that I would never get into law school, let alone graduate from high school. No one had any positive expectations for me. I was the son of Irish immigrants. After being kicked out of my first Catholic grammar school, a school controlled by an Order of Polish priests and nuns, and then flunked out of Catholic high school after my freshman year, I was dumped on the local public high school, where semester after semester I flunked two or three courses. Each summer, for four years I attended various high schools and passed courses previously flunked. Much of the time after school was spent in the vice-principal's office for one infraction or another. My lasting memory of that SOB, a successful Irish American, was the humiliation of his constantly saying to me, "You're a disgrace to the Irish." I was steered into the non-academic track - the dummy track: bookkeeping, typing, woodworking. Some teachers were kind; I cherish their memory. Others, including some

school counselors, were disinterested or nasty, and I, in rage, responded in kind.

The early school years were a disaster. I was stupid — and I knew it — and "written-off" by family and teachers. I did finally pass enough courses to graduate after four years of summer school, but the administration refused to grant me a diploma. I had too many behavior demerits. Some months later, while in the U.S. Army, I got a friend to speak to the Company Commanding Officer about writing a letter on my behalf, affirming my character. The Officer, of course, who had never met me, wrote the letter on my behalf. I received my diploma in the mail some months later. I was finally a high school graduate.



I was honorably discharged three years later on my 21st birthday. Somehow, I had avoided the stockades and military punishment, but I was an alcoholic with a criminal conviction for driving while intoxicated, having lived a debauched life. Believe it or not, I had become a personnel specialist and later a supervisor. Taking those typing and bookkeeping courses for "dummies" had actually paid off. I had been assigned to a barracks that included only enlisted men who had gone to college or had graduated from college with, of

course, one exception. While I was a proficient personnel worker, I was surrounded by men and officers whom I did not understand — neither their topics of conversation nor their vocabularies.

I had quietly promised myself over time that if I were alive, not seriously ill, and not in prison or the stockades upon the end of my three-year enlistment, I would strive to become a decent person and also try to attend college. The path since then has been uneven and need not be told, other than to note that I discovered the profession of social work some 27 years ago as I repaired my despair. A Children's Bureau Traineeship — my benefactors — facilitated my way through the M.S.W. program, and, since then, my professional focus has been directed toward children and youth.

Memories of clients and university students dance on my brain at odd moments, and I know that leaving management (complete with clean shaven face, white shirt and suit, and hierarchy) to become a welfare worker, a supervisor at a state training school for boys, a school social worker, and later a professor was the right choice for me. After all, I have an authority problem. But, more importantly, every so often, I made a positive difference in people's lives.

The last hurdle — the one that might finally erase the stigma of being declared "stupid" and a "disgrace to the Irish" — seemed impossible to achieve. Could I, in my mid 50's "get accepted" into one of the best public law schools in the nation?

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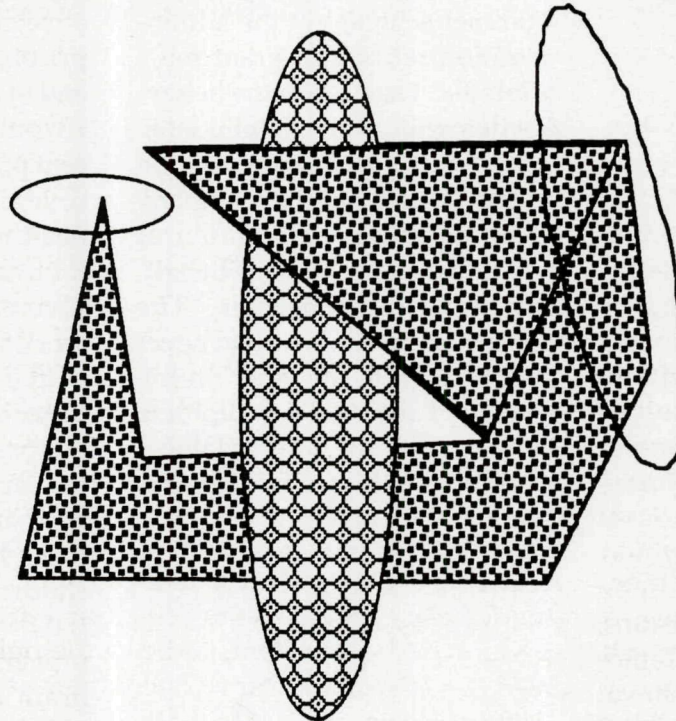


LSAT? Would they really accept an older student with a rather undistinguished undergraduate career? And, could I handle law school studies while working full-time at the University, for I could not and would not give up economic security and, for the most part, satisfaction. Would I be able to compete with classmates? I also knew that more was at stake; I imagined that I represented older people (I did become the oldest student in my class of 250), social workers, and my university. If I failed, would others similarly situated be denied acceptance?

I was determined to make it; from colleagues came doubt, skepticism, and, from one, even hostility. My wife, an excellent social worker, was very supportive, while my son, a freshman in high school, was intrigued, worried about the possible loss of his father, and accepting.

Preparing for law school ranged from reading *One L* by Scott Turow (1977), a description of the author's first year at Harvard Law School, to watching the "Paper Chase" series late at night on cable TV, to sitting in on a number of law-related classes for undergraduates, to studying many nights and weekends to prepare for the feared LSAT. The letter of acceptance came in late March. Elation was quickly followed by anxiety. Did I really want three more years of intense pressure as a student,

thousands of dollars in expenses, incredible isolation, many nights away from my family, seclusion in a tiny room, and study that meant going through thick volumes with hard-to-read print? I couldn't turn back. To turn away from this opportunity would be to admit failure.



I began law school in May, 1990, and graduated in December, 1992, while working full time at the University. I did no dishonor to myself nor my imagined constituent groups.

Only the "Bar" remained to be conquered in late January, 1993, the ordeal all law students fear. First came Bar review school for nine days, coupled with volumes of material to be digested, and then the two and one-half days of written examinations on 26 different law subjects — from Criminal Law to Torts and many fields that I refused to study while in law school. In law school, I chose

such elective courses as Juvenile Law, Poverty Law, Comparative Constitutional Law, and Education Law, none of which are tested on the Bar. My social work roots ran deep. My classmates, intending to become the "complete" lawyer, grappled with Commercial Transactions ("I've

got CT this semester," said a classmate. "Is that a disease?" I asked), Corporations, Federal Income Tax, and Debtor Creditor Law. I reasoned that I would never use all that "stuff" and, besides, I owed my profession — my first and lasting profession of social work — the more related knowledge that would come from my smorgasbord selection.

The pass rate for my cohort group was just 59 percent. Somehow, I passed, but some friends did not; some retook the exam six months later and passed, thereby moving beyond the agony of failure to share and rejoice; others left the state; and some chose not to become lawyers. I was "sworn" in by a Justice of the State Supreme Court. I was an attorney! . . . and still a professor in a Department of Social Work.

Not quite ready to "solo," I became a volunteer Assistant County Attorney in the Juvenile Division for the County. For one year — ranging between 8 hours and 20 hours a week — I almost became a "real" attorney. After awhile I was given sole responsibility for the entire afternoon docket — typically — 10 to



12 delinquency and children in need of assistance cases (CINAs). I was on my own. I sat side by side with a worker from the Department of Human Services or from Juvenile Court Services. I was their attorney and, for many, their former professor. Role confusion needed to be resolved. I was no longer "Dr." but Jim, the Assistant County Attorney.

We quickly disposed of the various cases. Clients' names and their situations blur. I would quickly speak with the assigned social worker or the juvenile court officer to clarify the proposed recommendations to the Court. Next, I would determine if clients were present including their attorneys. If everyone were ready, we would get them into the court room. Staying on time was critical while recognizing and accepting that, at times, agreements had to be worked out among the parties. Once all were seated, I would quietly knock on the door of the judge's chambers and announce: "Your honor. We're ready." With respect bordering on reverence, I was honored to refer to the judge as "Your Honor." Court, for me, then and now, is a solemn occasion; it is the protector of children's futures.

I knew I was becoming an accepted Assistant County Attorney when attorneys representing children and youth charged with delinquent acts (really crimes) would try to work out a plea. Few youth charged with delinquent acts ever have the equivalent of a trial. The system would come to a complete halt if contested hearings were

held to prove beyond a reasonable doubt that the youth committed the delinquent acts. Plea agreements are the norm. Court time can range from 15 to 30 minutes. An adjudicatory hearing can take anywhere from a few hours to a few days. Often, it is a simple swap of similar offenses. For example, the youth will admit to two simple misdemeanors and the State will dismiss one or two simple misdemeanors. Plea agreements were invariably accepted by the presiding judge.

The year passed quickly. My confidence increased as we flowed through the afternoon docket. The work became routine. Anxiety in the beginning was almost turning to boredom. Children, parents, attorneys, and social workers or juvenile court officers paraded through the court room. With each case came the accompanying "piles" of reports, albeit important, to be read — or at least scanned to find the important parts. I increasingly became aware of community resource providers, the quality of their work, and their reports. I reacquainted myself with the DSM-IV, various psychological tests, current therapies, the different types of family foster care and group care, and a range of other services to families.

I "tried" (went to trial) three cases and won; the cases were admittedly not complicated. I was ready to "solo" in Juvenile Court and to accept court appointments and assume all attorney responsibilities.



## THE PRACTICE OF JUVENILE LAW

I received my first case from the Clerk of Court. I would be representing the children in an abuse case. I read the petition and supporting documents, and reviewed the appropriate Code sections. My first letter to a client was typed, with another letter to the mother. I devised a system for billing the State and keeping track of my time. The administrative/clerical aspects are necessary but a nuisance.

Since that time, phone calls from the Clerk asking me to accept a new case occur with just the right frequency. I now represent parents or children in CINA proceedings and juveniles who are alleged to have committed delinquent acts. My role as attorney and guardian ad litem is the most meaningful, challenging, and invariably satisfying, but it also can be the most painful and difficult.

The guardian ad litem is expected to conduct "in-person interviews with the child and each parent, guardian, or other person having custody of the child; "visit "the home, residence, or both home and residence of the child and any prospective home or residence of the child;" interview "any person providing medical, social, educational, or other services to



the child;" obtain "first-hand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem;" and attend "any hearings in the matter in which the person is appointed as the guardian ad litem" (Iowa Code, Chapter 232.2(22)).

To be truthful, the role is not dissimilar to what a social worker might do when conducting an assessment. I interview children, parents, foster parents, therapists, and various service providers; I visit a variety of social service agencies; the youth shelter; the homes of parents, grandparents, and foster families; and prospective homes for the children that I represent. And, then, professional judgments must be made. As a child's attorney I represent the child's interests, but as guardian ad litem, I represent the child's best interests.

Role conflict between the child's interests and, in my judgment the child's best interests can and does occur, especially when I represent teenagers who, for example, either do not want to be adjudicated CINA, have their relationship rights with their biological parents involuntarily terminated, or do not want services that will restrict their freedom (such as demanding their mandatory participation in an after-school day care program five days a week). I offer no simple solutions, and I certainly feel much anguish when there is conflict between roles. Sometimes, I state both my clients' positions as their attorney and, in my professional judgment,

their best interests.

In my heart, sometimes I become very close to the children I represent. At times I have said to my wife, "Let me tell you about a couple of children I saw today... I'd like to take them home." Of course, I cannot. For other children, making connections is much more difficult. A 13 year-old young man, whom I have seen a few times, is probably doomed. After I "made the case" in the Judge's chambers, with all the relevant parties present, that at this time my client is not a CINA under any of the stated provisions in the Petition, even though his school attendance record is dismal, we proceeded into Court. There, during the proceedings, the Judge told my young client that he was expected to attend school and that if he refused, necessary judicial action would ensue. My client quietly and defiantly said, "Do what you gotta do." Silence. I was stunned. The Judge, turning to the social worker for the Department, said: "Place... in a youth shelter after the hearing. If the local shelter is full, check around, but get him into a shelter today." Afterwards, there were conferences with the young man and social workers, preparatory to his trip to the youth shelter, to see what we could do to help him change his "attitude" and get him out of the shelter before the next hearing in two weeks. Two days later, I spoke to him at the shelter. He was content to stay for the full two weeks. This arrangement was better than staying at his cramped apartment! He will stay for almost a month.

I represented a mother who is young, attractive, and very poor. She lost her job, had been cut off from various welfare programs, and was unable to provide the necessary documents to receive Title XIX and food stamps. Now she is dependent on her new boyfriend and her father. Her child is placed out of the home because of two recent founded child abuse reports that determined that the child was denied critical care and that the parents failed to provide adequate supervision. Before the hearing I had read the two reports, the petition, a prior temporary removal order, and other documents. I met her for the first time at the court house, although my letter had requested that she call me to arrange a conference. I explained what may/will happen at the hearings, asked numerous questions, including whether she wanted her child back in her home and how visitation was going. Yes, she badly wanted her child back at home. She agreed that her child was a CINA. At the hearing, we stipulated. I spoke with the Department of Human Services (DHS) worker; she had concerns — no way would she support a recommendation that the child be allowed to go back home after the hearing. I spoke to the Assistant County Attorney, the attorney and guardian ad litem, the father's attorney, and the DHS service provider. I noted among the family in attendance a personal acquaintance of mine from years ago who supports the father. Awkward. I explained our position and worked



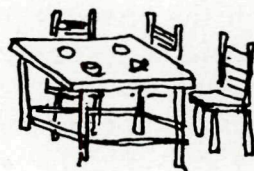
out the stipulation. All attorneys agreed. I, on behalf of my client, agreed to services offered (really, have no choice) even the dropping of UAs (urinalysis), though nothing in the record suggested substance abuse is a problem. The father's attorney stated that his client wanted his child. Impasse. We worked out visitation arrangements.

We're all in Court sitting crowded around two tables awaiting the Judge's arrival. The Judge arrives and the plea is accepted. The Judge admonishes each parent to spend as much time with the child as possible. The child will not be returned home to either parent. We await the disposition hearing eight weeks hence. After the court hearing is concluded, I meet with my client and attempt to stress what she must do to get her child back.

I wonder as I leave the courtroom if my client will make the efforts to see her son, complete the application process to get food stamps, etc., or perhaps find a job. A family member commented that neither parent should have the child. Services will begin. Now the providers — social workers and others with various types of training and education — step in to work their "magic."

My job is over until just before the next hearing, absent a phone call or a crisis that will bring us back before the court. I'll see my client in eight weeks, again for a brief period, and the process will continue every six months until successful reunification and discharge or, perhaps, termination of parental rights.

As an attorney, I increasingly am aware of the limitations of my role. I protect my clients' legal rights; represent their interests and/or their best interests; explain the juvenile justice system and, more importantly, the social service system and how it impacts on their lives from the perspective of the court; try to shape numerous decisions in my clients' favor; and, when I can, try to "social work" my clients.



One example of "social working" a client: After sitting at the kitchen table for about an hour with my client and her boyfriend, discussing an alleged incident of physical abuse of her son and whether we should contest the Department's founded report, it became increasingly obvious that their relationship and the way they communicated would lead to another separation and would only perpetuate relationship and communication problems for my client and perhaps delay the return of her child. I risked sharing my observations of what I saw in their relationship and interpretations of what I heard. The father — her boyfriend — quickly agreed, and the mother did not challenge him or my observations and interpretations. I suggested therapeutic interventions and services. Later, I spoke with the Department worker and suggested services. In time, my recommendations, as stated by

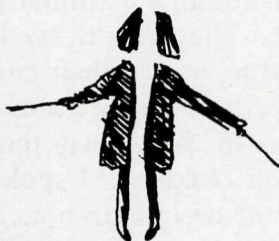
the State, were accepted by the court.

Tears almost came as I recently left the courtroom and drove back to my office. The courtroom had been packed with family members and attorneys for this review hearing of two girls who have now been placed out-of-home for almost nine months. They have thrived and wanted to stay in their current home. Attorneys for the mother and then the father made the case for their children. I spoke on behalf of the children as their representative and, if you will, protector. I fear that if these children are returned to either parent, they will once again be witnesses to violence — violence to their mother and the ensuing and continuing trauma that each child lived with daily prior to removal. In three months a permanency hearing will be held to determine, at least, a permanent home for an extended period. I dread the uncertainty, especially for the children, wondering what the court will decide. For the next few months, those children will have an uncertain future.

I now enter the lives of clients and their families as their lawyer and, for children and youth, as their guardian ad litem. My social work colleagues — many of them former students — are there to mend the lives of my clients. They have the harder challenge. My law work is much neater; I revolve around the movements of the court — temporary removal, initial, adjudicatory, disposition, review, and termination hearings. I am in my clients' lives, and then I am out of their lives. The providers



— many social workers — are there before, between, and after court hearings. My respect for their labors as they work under very difficult circumstances again reminds me of why I chose social work as my first and enduring profession.



## POSTSCRIPT

Balancing a modest solo law practice with the University's demands of teaching, writing, and service means that I work (by choice) seven days a week. I am driven. The mix seems right for me. I believe that I can make the combination of law and social work serve each in their respective domains.

I have gained new appreciation for the importance of the social work profession and the essential and valuable services of my social work colleagues. Doing family preservation, family centered services, and group and individual counseling for a host of social and personal issues are so much more difficult than what I do as an attorney in Juvenile Court. I walk my clients through the system, making sure that their rights are protected, while also addressing their interests, and, as appropriate, their best-interests.

As a professor, I had lost touch with the "hurt" of so many

that I had discussed in the aggregate. Now I am in touch again. My comfortable life — the two-professional-earner-household — is a privilege, and, to be honest, I benefit from the misery of others. The social work courses that I teach are enhanced by my juvenile law practice. I am more at peace with my new marriage of social work and the law and the respect that I need from both professions. □

## REFERENCES

Iowa Code Annotated. Chapter 232 (1995).

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