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TAKING HOLD OF THE ELEPHANT IN CHILD DEPENDENCY AND NEGLECT CASES

CHRISTINA A. ZAWISZA *

INTRODUCTION

It was six men of Indostan
To learning much inclined,
Who went to see the Elephant
(Though all of them were blind),
That each by observation
Might satisfy his mind.

The First approached the Elephant,
And happening to fall
Against his broad and sturdy side,
At once began to bawl:
“God Bless me! but the Elephant
Is very like a wall!”

The Second, feeling of the tusk,
Cried, “Ho! what have we here,
So very round and smooth and sharp?
To me ‘tis mighty clear
This wonder of an Elephant
Is very like a spear!”

The Third approached the animal,
And happening to take
The squirming trunk within his hands,
Thus boldly up and spake:
“I see,” quoth he, “the Elephant
Is very like a snake!”

The Fourth reached out an eager hand,
And felt about the knee,
“What most this wondrous beast is like
Is mighty plain,” quoth he;
“Tis clear enough the Elephant
Is very like a tree!”

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The Fifth, who chanced to touch the ear,
Said, "E'en the blindest man
Can tell what this resembles most;
Deny the fact who can,
This marvel of an Elephant
Is very like a fan!"

The Sixth no sooner had begun
About the beast to grope,
Than, seizing on the swinging tail
That fell within his scope,
"I see," quoth he, "the Elephant
Is very like a rope!"

And so these men of Indostan
Disputed loud and long,
Each in his opinion
Exceeding stiff and strong,
Though each was partly in the right,
And all were in the wrong!

—John Godfrey Saxe (1816-1887)¹

For the most part, the traditional law school curriculum leads students to examine clients' problems too narrowly² and individualistically.³ The traditional mode of legal analysis results in missed opportunities for interdisciplinary thinking, creative problem-solving and greater client satisfaction with the legal process.⁴ In searching for "legal" issues in a "case," law students grab on to the disparate "body parts" of the "Elephant" without appreciating the animal in its wholeness. This tendency develops because the traditional law school curriculum does not systematically lend itself to teaching analytical tools to help "elucidate the Elephant," a phenomenon I have found to be as true in the area of juvenile law as my

1. John Godfrey Saxe, *THE BLIND MEN & THE ELEPHANT* (Whittlesey House 1963). Two colleagues have suggested the "blind men and the elephant" metaphor to me in my teaching of child advocacy: Adela Beckerman, Ph. D., a social work colleague when we both taught at Nova Southeastern University, she in the School of Education, and I at the Shepard Broad Law Center; and Kim Diana Connolly, a clinician at the University of South Carolina School of Law. See also Kim Diana Connolly, *Elucidating the Elephant: Interdisciplinary Law School Classes*, 11 WASH. U. J.L. & POL'Y 11, 11-12 (2003).

2. See Marc W. Patry et al., *Better Legal Counseling Through Empirical Research: Identifying Psycholegal Soft Spots and Strategies*, in DENNIS P. STOLLE ET AL., *PRACTICING THERAPEUTIC JURISPRUDENCE: LAW AS A HELPING PROFESSION* (Carolina Acad. Press 2000) [hereinafter *HELPING PROFESSION*].

3. Jane Aiken & Stephen Wizner, *Law as Social Work*, 11 WASH. U. J.L. & POL'Y 63, 65 (2003) (describing "individualistic" practice as is focuses exclusively on the individual client and not on that client's family and community).

4. See, e.g., Linda Morton, *Teaching Creative Problem Solving: A Paradigmatic Approach*, 34 CAL. W. L. REV. 375, 379 (1998).

colleague, Kim Connolly at the University of South Carolina, has found to be in the area of environmental law.⁵

The field of children's law has grown exponentially in complexity over the past several decades.⁶ Societal problems, such as child maltreatment, juvenile delinquency, family violence, substance abuse, poverty, and medical and mental health issues, complicate children's legal problems.⁷ Family structures have dramatically changed, with more single parent households, more mothers employed outside the home and increased divorce rates. New family constructs, such as relatives, especially grandparents, raising another generation of children in lieu of parents have made family and juvenile law practice more difficult.⁸

Another factor increasing the level of case difficulty has been the advent of practice standards for lawyers representing children in abuse and neglect cases. In 1996, motivated by the demands placed on juvenile courts by changes in federal law, the American Bar Association House of Delegates adopted a model set of standards of practice for lawyers who represent children in abuse and neglect cases.⁹ A scholarly assemblage of lawyers at Fordham University in 1996 (the Fordham Conference)¹⁰ and the highly respected National Association of Counsel for Children, have advanced this standard-setting effort by putting forward their particular version of professional responsibilities for children's lawyers in abuse and neglect proceedings.¹¹ Since then, a host of states, either through statute or

5. Connolly, *supra* note 1, at 25.

6. Bruce A. Green & Bernardine Dohm, *Children & the Ethical Practice of Law, Foreward to Special Issue, Ethical Issues in the Legal Representation of Children*, 64 *FORDHAM L. REV.* 1281, 1285 (1996); see also Barbara A. Babb, *An Interdisciplinary Approach to Family Law Jurisprudence: Application of an Ecological & Therapeutic Perspective*, 72 *IND. L.J.* 775, 780-81 (1997).

7. Babb, *supra* note 6, at 781; see also Michael T. Dolce, *A Better Day for Children: A Study of Florida's Dependency System with Legislative Recommendations*, 25 *NOVA L. REV.* 547, 548-51 (2001).

8. See Christina A. Zawisza, *Protecting the Ties that Bind: Kinship Relative Care in Florida*, 23 *NOVA L. REV.* 455, 458 (1998); see also *Troxel v. Granville*, 530 U.S. 57, 64 (2000).

9. See ABA, *Proposed Standards of Practice for Lawyers Who Represent Children in Abuse & Neglect Cases*, 29 *FAM. L.Q.* 375 (1995); NATIONAL JUVENILE & FAMILY COURT JUDGES, *RESOURCE GUIDELINES: IMPROVING COURT PRACTICE IN CHILD ABUSE & NEGLECT PROCEEDINGS* 10 (1995) (discussing the effect of changes in federal law on the need for more detailed practice standards for lawyers representing children in abuse and neglect proceedings).

10. See generally CONFERENCE ON ETHICAL ISSUES IN THE LEGAL REPRESENTATION OF CHILDREN, *Recommendations of the Conference on Ethical Issues in the Legal Representation of Children*, 64 *FORDHAM L. REV.* 1301 (1996).

11. NATIONAL ASSOCIATION OF COUNSEL FOR CHILDREN, *NACC Child Law and Child Protection Standards of Practice*, at <http://www.naccchildlaw.org/training/standards.html> (last visited Feb. 19, 2005).

court rule, have placed increased obligations upon these lawyers.¹² The heightened normative expectations regarding professional behavior of lawyers in the abuse and neglect setting require more sophistication in the practice of children's law than ever before.¹³

In my teaching in the Child Advocacy Clinic at The University of Memphis, School of Law, I have certainly experienced the effects of increased case complexity as well as the greater behavioral expectations placed on lawyers. Through the promulgation of Rule 40 in 2002, the Supreme Court of Tennessee now requires very exacting performance by attorneys representing children in dependency and neglect proceedings.¹⁴ In order to assist my students to fulfill their professional obligations, I find it necessary to introduce analytical tools from other professions that help them to understand the families with whom they are interacting, to organize their investigations and to then develop an effective advocacy strategy that will resolve core problems. I use two integrating devices prevalent in the fields of social work and psychology: ecomaps and genograms.¹⁵ Through employing such integrating devices, my students can take hold of the entire "Elephant," not just its idiosyncratic "body parts." In the process they learn about the strong interdisciplinary aspects of children's law, acquire skills that more creatively and more lastingly resolve their client's problems, and discover that, through the application of principles of Therapeutic Jurisprudence, children feel more valued and respected by the legal system.

In order to place this article in context, I will first describe Tennessee's practice rule for attorneys representing children as Guardians ad Litem. It is an example of the "Elephant," the many component parts of a child's life that the child's lawyer is required to bring together to represent the child holistically. In Part II, I will describe and apply three

12. See, e.g., CENTRAL MISSOURI CHILD LAW CENTER, *Guidelines for Children's Attorneys*, at <http://www.rollanet.org/~childlaw/galstd/galstd.htm> (last visited Feb. 19, 2005). STATE OF MAINE JUDICIAL BRANCH, *Guardian Ad Litem Standards*, at http://www.courts.state.me.us/courtservices/guardian_al/standards/html (last visited Feb. 19, 2005); MINNESOTA JUDICIAL BRANCH, *Guardian Ad Litem System Program Standards*, at <http://www.courts.state.mn.us/documents/GAL/GALProgramStandardsDec62004.doc> (last visited Feb. 19, 2005).

13. Cf. Martin Guggenheim, *A Paradigm for Determining the Role of Counsel for Children*, 64 FORDHAM L. REV. 1399 (1996); Randi Mandelbaum, *Revisiting The Question of Whether Young Children in Child Protection Proceedings Should Be Represented by Lawyers*, 32 LOY. U. CHI. L.J. 1 (2000).

14. TENN. S. CT. R. 40 (2004).

15. Jean Koh Peters has coined the phrase "integrating devices" to refer to analytical or organizing tools to help children's lawyers understand the "child in context." JEAN KOH PETERS, REPRESENTING CHILDREN IN CHILD PROTECTIVE PROCEEDINGS: ETHICAL AND PRACTICAL DIMENSIONS 114-15 (2d ed. LexisNexis 2001).

developing jurisprudential movements that embrace the techniques I utilize: interdisciplinary practice, creative problem-solving and Therapeutic Jurisprudence. In Part III, I will provide an overview of ecomaps and genograms as they are commonly used in the social sciences. In Part IV, I will introduce the hypothetical Rolle Family, whom I use to teach these integrating devices, and I will draw the Rolle Family ecomap and genogram. Part V will discuss the ways in which my law students have used these devices in the clinical setting. They have expanded my views about the efficacy of these devices, and, as a result of adopting them, they have enriched their practice before the juvenile court. I will conclude with the opportunities offered by these devices to expand the repertoire of the interdisciplinary, problem-solving and Therapeutic Jurisprudence movements in legal education through the introduction of concrete analytical tools, to the ultimate edification of law students, as well as their future clients.

I. CONTEXT: TENNESSEE SUPREME COURT RULE 40

In 1997, Professor Jean Koh Peters debuted a model of representation of the “child-in-context in child protective proceedings” in her textbook, *Representation of Children in Child Protective Proceedings*.¹⁶ The book’s thesis is that lawyers for children can and must individualize their representation, in a way that allows maximum possible participation of the client, so that their representation reflects the child-in-context and the child’s unique view of the world.¹⁷

The Tennessee Supreme Court’s Guidelines for Guardians ad Litem for Children in Juvenile Court Neglect, Abuse, and Dependency Proceedings¹⁸ are an example of state practice norms that reflect the Peters model. My view is that such detailed norms make the lawyer’s need for interdisciplinary and therapeutic jurisprudential understanding and creative problem-solving ability, and thus the need for integrating devices, all the more imperative.

Rule 40 requires Tennessee lawyers to represent the child’s best interests unless a conflict of interest develops between best interests and expressed wishes.¹⁹ The rule helps the attorney to make the best interests determination more objective by defining the specific needs and preferences of the child. The following factors must be investigated: the

16. *Id.* at 1-19.

17. *Id.* at 1.

18. TENN. S. CT. R. 40 (2004).

19. TENN. S. CT. R. 40 (d)(7)-(e)(3) (2004).

child's basic physical needs (safety, shelter, food, clothing and medical care); the child's emotional needs (nurturance, trust, affection, security, achievement and encouragement); the need for family affiliation; the social and educational needs; the child's vulnerability and dependence upon others; the physical, psychological, emotional, mental and developmental effects of maltreatment upon the child; the degree of risk; the need for stability of placements; age, developmental level and sense of time; the general preference of the child to live with known people, to continue normal activities and to avoid moving; the alternative available placement resources, including relatives, friends and neighbors; the love, affection and emotional ties existing between the child and the potential or proposed or competing caregivers; the importance of continuity in the child's life; the home, school and community record of the child; the preference of the child; and the willingness of the proposed or potential caretakers to facilitate and encourage close and continuing relationships between the child and significant persons in the child's life, including siblings.²⁰

The lawyer's duties are considerable. In the area of independent case investigation, the lawyer must obtain necessary releases of information and discovery orders; review the court files of the child and the child's siblings; review all records of the child welfare agency; review the child's and parents' psychiatric, psychological, substance abuse, medical, school, criminal and law enforcement and other records; interview the parents or legal guardians of the child; interview all other individuals involved with the child, including school personnel, caseworkers, foster parents, caretakers, neighbors, relatives, coaches, clergy, mental health professionals, physicians and other potential; review all documentary evidence, such as photographs, videos or audiotapes; and engage and consult with other professional experts when necessary.²¹

The lawyer must also be a thorough client counselor, explaining the proceedings to the child, consulting with the child at all critical junctures and during emergencies or significant events and preparing the child to testify, if necessary.²² Further, the lawyer is charged with "assessing the needs of the child and the available resources within the family and community to meet the child's needs."²³ The location of resources available through special education, health care, health insurance and

20. TENN. S. CT. R. 40 (b)(2)(i)-(xviii) (2004).

21. TENN. S. CT. R. 40 (d)(1)(i)-(x) (2004).

22. TENN. S. CT. R. 40 (d)(2), (3), (6) (2004).

23. TENN. S. CT. R. 40 (d)(4) (2004).

victim's compensation is also a responsibility of the child's attorney.²⁴

Finally, the child's attorney must serve as a legal advocate, utilizing traditional legal skills. The lawyer must file petitions, briefs, legal memoranda and motions and must engage in formal and informal discovery and negotiations. She must make opening statements and closing arguments; call, examine and cross examine witnesses; introduce evidence; prepare and submit proposed findings of fact and conclusions of law; and participate in appellate proceedings when necessary. In addition to traditional lawyer duties, she must also monitor the child's status after the entry of court orders, and attend all school and other administrative staffing and treatment meetings. She must assure that the child is receiving necessary social and other services and that appropriate contact with family members is being maintained.²⁵

The complexity of a child welfare law today requires that law students be prepared to undertake such a specialized practice. As clinical legal educators, we must continue to focus on developing practice skills by using singular techniques that enable our students to fulfill professional normative expectations, like those advanced by the Tennessee Supreme Court.²⁶

II. CONTEXT: INTERDISCIPLINARY LAW, CREATIVE PROBLEM-SOLVING AND THERAPEUTIC JURISPRUDENCE

In order to advance the teaching of child welfare law today, reference to methodologies or assessment tools, such as ecomaps or genograms, which come from social work, psychology and other non-legal fields, are helpful. Three growing jurisprudential trends favor this approach: interdisciplinary legal education; creative problem-solving; and Therapeutic Jurisprudence. Together, these three approaches help us to "[e]lucidate the Elephant," that is, to find "the key to truly understanding the nature of our entire profession, which, like the fabled blind men, we tend to experience from our own limited perspectives."²⁷

24. TENN. S. CT. R. 40 (d)(5) (2004).

25. TENN. S. CT. R. 40 (d)(7)-(10) (2004).

26. Suelyn Scarnecchia, *An Interdisciplinary Seminar in Child Abuse and Neglect with a Focus on Child Protection Practice*, 31 U. MICH. J.L. REFORM 33, 33 (1997); ANN M. HARALAMBIE, *THE CHILD'S ATTORNEY: A GUIDE TO REPRESENTING CHILDREN IN CUSTODY, ADOPTION AND PROTECTION CASES* (ABA 1993); PETERS, *supra* note 15, at xix-xx.

27. Connolly, *supra* note 1, at 17.

A. INTERDISCIPLINARY EDUCATION

Many law schools today understand the desirability of exposing students to substantive content and skills from other professions in order to enhance interdisciplinary cooperation and to teach law students that broad-based learning increases a lawyer's capacity to understand a client's problems.²⁸ "Collaboration" or "cooperation" among disciplines is a common characteristic of interdisciplinary education.²⁹

Additional goals of interdisciplinary education are to create mutual respect and appreciation among disciplines, to encourage teamwork, to develop knowledge and understanding of other disciplines and to enhance communication among and learn the vocabulary of other disciplines. All of these goals seek to decrease interprofessional animosity.³⁰ Another facet of interdisciplinary education is to assist future lawyers in learning the rules, beliefs and ethical requirements of other professions in comparison to their own, not only so that they may better understand their own profession's ethics, but also so that they may successfully interact with professionals from other disciplines.³¹

B. CREATIVE PROBLEM-SOLVING

A second theoretical construct designed to advance the practice of law

28. Connolly, *supra* note 1 at 23. Professor Connolly summarizes some of the existing scholarship promoting interdisciplinary cooperation, such as: Naomi Lynch & Virginia Strand, Symposium, *Report of the Education Working Group*, 70 *FORDHAM L. REV.* 369 (2001); Lawrence M. Friedman, *Symposium on Taking Legal Argument Seriously: Taking Law and Society Seriously*, 74 *CHI.-KENT L. REV.* 529 (1999); Andrew J. Pirie, *Objectives in Legal Education: The Case for Systematic Instructional Design*, 37 *J. LEGAL EDUC.* 576 (1987); Col. Donald L. Burnett, Jr., *Twenty-Second Edward H. Young Lecture in Legal Education: Professionalism: Restoring the Flame*, 158 *MIL. L. REV.* 109 (1998); Anita Weinberg & Carol Harding expand upon the history of interdisciplinary legal education in *Interdisciplinary Teaching and Collaboration in Higher Education: A Concept Whose Time Has Come*, 14 *WASH. U. J.L. & POL'Y* 15, 18-21 (2004).

29. See, e.g., Paula Galowitz, *Collaboration Between Lawyers and Social Workers: Re-Examining the Nature and Potential of the Relationship*, 67 *FORDHAM L. REV.* 2123, 2143 (1999). Collaboration has been defined as a process that involves shared decision making among collaborators to make "maximum use of the experiences and knowledge" of each. Susan Bryant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 *VT. L. REV.* 459, 460 (1993). It is one in which the participants have joint responsibility for agreed upon action. Marie Weil, *Research on Issues of Collaboration Between Social Workers and Lawyers*, 56 *SOC. SERV. REV.* 393, 395 (1982).

30. Weinberg & Harding, *supra* note 28, at 22.

31. See *Id.* See also Galowitz, *supra* note 29, at 2134-40; Gerard F. Glynn, *Multidisciplinary Representation of Children: Conflicts Over Disclosures of Client Communications*, 27 *J. MARSHALL L. REV.* 617 (1994).

is the creative problem-solving movement. According to Professor Thomas D. Barton, “[c]onceiving the lawyer as creative problem solver’ is an attempt to expand and refine the repertoire of procedures and skills for resolving legal problems, so that those problems will be resolved more efficaciously and respectfully of human relationships.”³² Its focus offers a more flexible alternative to traditional legal procedures in the hope that the human context of legal problems is given greater respect and that better solutions are generated.³³

Among the attributes of creative problem-solving is the propagation of new mentalities and skills to be applied to legal problems, so that problems might be solved more reliably, more durably, more respectfully and with fewer side effects. In addition to requiring lawyers to develop a variety of problem-solving tools, it forces them to devote personal attributes of courage and human empathy in choosing the particular tools that best address a particular problem.³⁴ It has also been suggested that creative problem-solving focuses on the “whole picture” of what lawyers do, demanding that lawyers view their duties beyond traditional rules for practicing law. Thus, they must focus also on their own practice values, on problem prevention, and on self-reflection.³⁵

C. THERAPEUTIC JURISPRUDENCE

Therapeutic Jurisprudence is the study of the law’s healing potential.³⁶ It centers on the law’s impact on the emotional life and psychological well-being of all participants in the legal system.³⁷ Its premise is that legal rules and procedures, legal actors, and the operation of the legal system in general, are social forces that produce either therapeutic or anti-therapeutic consequences on society as whole, as well as on the individuals acting

32. Thomas D. Barton, *Creative Problem Solving: Purpose, Meaning and Values*, 34 CAL. W. L. REV. 273, 274 (1998).

33. *Id.* at 284; see also Susan Jarboe, *Group Communication and Creativity Process*, in LAWRENCE R. FREY ET AL., *HANDBOOK OF GROUP COMMUNICATION THEORY AND RESEARCH* (Sage 1999).

34. Thomas D. Barton, *Conceiving the Law as Creative Problem Solver*, Introduction to *Conceiving the Lawyer as a Creative Problem Solver* 34 CAL. W. L. REV. 267, 268 (1998).

35. Linda Morton, *Teaching Creative Problem Solving: A Paradigmatic Approach*, 34 CAL. L. REV. 375, 379-80 (1998); see also ROGER S. HAYDOCK & PETER B. KNAPP, *LAWYERING PRACTICE AND PLANNING* viii-xi (2d ed., Thompson-West 1996).

36. Bruce J. Winick, *Therapeutic Jurisprudence and the Role of Counsel in Litigation*, in *HELPING PROFESSION*, *supra* note 2, at 311.

37. David B. Wexler, *Practicing Therapeutic Jurisprudence: Psycholegal Soft Spots and Strategies*, in *HELPING PROFESSION*, *supra* note 2, at 45.

within society.³⁸ A consequence is “therapeutic” if it promotes the mental, emotional, and/or physical health and needs of the individuals concerned, and “anti-therapeutic” if it produces consequences which are detrimental to one’s mental, emotional, or physical health.³⁹

Among the features of Therapeutic Jurisprudence is the “legal checkup” in which a lawyer helps the client to identify not only “legal soft spots,” but “psycholegal soft spots” (areas where legal intervention or procedures may not lead to a lawsuit or legal risk, but may lead to anxiety, distress, depression, or hard and hurt feelings)⁴⁰ and “psycholegal opportunity spots” (places where a sensitive trial lawyer can act in ways that will achieve psychological benefits for the client).⁴¹ A lawyer practicing Therapeutic Jurisprudence would discuss these psycholegal soft spots and opportunities with the client and seek possible strategies for dealing with them.⁴²

Another attribute of Therapeutic Jurisprudence is its synthesis with preventive law. Preventive law has been characterized as a proactive approach to lawyering, which emphasizes the lawyer’s role as an “advance planner,” who structures legal affairs to minimize the client’s potential liability and maximizes the legal opportunities.⁴³

A final characteristic of Therapeutic Jurisprudence is its focus on treating litigants with dignity, respect and fairness in legal proceedings as a means to give the clients “voice” and “validation.” When the client is allowed to tell his or her own “story” and to feel listened to in earnest, the client experiences greater satisfaction with the legal process and complies more readily with the outcome of the proceeding.⁴⁴

D. COMMONALITIES

These three approaches share common threads, best characterized by an expansion of the lawyer’s arsenal of tools, skills and procedures to solve

38. Kevin H. Smith, *Essay-Therapeutic Civil Disobedience: A Preliminary Exploration*, 31 U. MEM. L. REV. 99, 105-06 (2000).

39. *Id.*

40. Wexler, *supra* note 37, at 45.

41. Winick, *supra* note 36, at 312.

42. Patry, *supra* note 2, at 71-72.

43. Dennis P. Stolle et al., *Integrating Preventive Law and Therapeutic Jurisprudence: A Law and Psychology Based Approach to Lawyering*, in *HELPING PROFESSION*, *supra* note 2, at 5, 6-9.

44. Winick, *supra* note 36, at 320-23; Bernard Perlmutter & Carolyn Salisbury, “Please Let Me Be Heard:” *The Right of a Florida Foster Child to Due Process Prior to Being Committed to a Long-Term, Locked Psychiatric Institution*, 25 NOVA L. REV. 725, 765-67 (2001).

clients' problems.⁴⁵ Each looks to disciplines other than law to supply the lawyer's armory and relies on other professions to sharpen attention on the human relations aspects of the practice of law. All seek to offer alternatives, supplements or complements to traditional legal methodologies.

It is not surprising that these three approaches are frequently embraced in reflecting upon the practice of children's law.⁴⁶ Finally, he or she must make sure to find psycholegal opportunities during the trial phase of the representation in order to maintain contact with the child.⁴⁷

Almost by definition, the lawyer is expected to practice Therapeutic Jurisprudence and creative problem-solving. They must assess the needs of the child and the available resources within the family and community to meet those needs. If additional resources are needed, the lawyer must locate and find them and thus engage in preventive lawyering.⁴⁸ The introduction of assessment tools or integrating devices, I believe, is essential to prevent Rule 40 tenets from becoming overwhelming to the novice lawyer.

III. TRADITIONAL APPLICATION OF ECOMAPS AND GENOGRAMS

The social sciences define a "family" as a group of individuals who share a sense of mutual commitment, history, continuity and the potential for and expectation of long-lasting relationships that are exclusive and intense. "Family members" also include those who share an understanding of the social responsibility of adults for the welfare and development of the children in the group.⁴⁹ Families today involve complex, even nontraditional relationships; they may be divorced, blended, adoptive,

45. See Carolyn Copps Hartley & Carrie J. Petrucci, *Practicing Culturally Competent Therapeutic Jurisprudence: A Collaboration Between Social Work and the Law*, 14 J.L. POL'Y 133 (2004).

46. See, e.g., Babb, *supra* note 6; PETERS, *supra* note 15, at 114-19, 355-63; Scarnecchia, *supra* note 26; Haralambie, *supra* note 26, at 170-91; Weinberg & Harding, *supra* note 28; Kathryn E. Maxwell, *Preventive Lawyering Strategies to Mitigate the Detrimental Effects of Clients' Divorces on Their Children*, in HELPING PROFESSION, *supra* note 2, at 161; Susan L. Brooks, *A Family Systems Paradigm for Legal Decision-Making Affecting Child Custody*, 6 CORNELL J.L. & PUB. POL'Y 1 (1996) [hereinafter *Family Systems*]; Susan L. Brooks, *Therapeutic Jurisprudence and Preventive Law in Child Welfare Proceedings: A Family Systems Approach*, 5 PSYCHOL. PUB. POL'Y & L. 951 (1999); Jill K. Jensen, *Fostering Interdependence: A Family-Centered Approach to Help Youth Aging Out of Foster Care*, 3 WHITTIER J. CHILD & FAM. ADVOC. 329 (2004); Perlmutter & Salisbury, *supra* note 44.

47. TENN. S. CT. R. 40 (c)(3) (2004).

48. TENN. S. CT. R. 40 (d)(1)(x) (2004).

49. LINDA BERG-CROSS, *BASIC CONCEPTS IN FAMILY THERAPY* 7 (Haworth Press 2000).

immigrant, gay or lesbian, multigenerational, extended or a combination of these.⁵⁰

Guided by the pioneering work of Professor Urie Bronfenbrenner, social scientists have sought to study and understand the "family" through examining the ecology of human development of children within families.⁵¹ This is ultimately a therapeutic and problem-solving approach, not only offering intrinsic knowledge, but promoting the evaluation and diagnosis of family issues.⁵² At the same time, the "ecological approach" strives to strengthen the interactions and connections of "family" within the community in order to improve the world in which families and their children function.⁵³

In order to perform this work more efficiently, social science professions, such as social work, psychology and family therapy, use various tools to map the family structure and its ecology and to note and update the family "picture" as it emerges.⁵⁴ Two of these techniques are the "ecomap"⁵⁵ and the "genogram."⁵⁶ Each employs a "family systems theory" which considers all aspects of a child's life in a family, as well as within his or her larger social environment.⁵⁷

Bronfenbrenner views the interactions of child and parent as the main impetus for human growth and development. He does however, examine the child's relationships with other family members and with all other "settings" or "systems" in his or her life, including school, work, legal system, social service agencies, health systems and other key influences. A primary principle of "family systems theory" is that of mutual interaction and shared responsibility among family members and the other "settings" or "systems" in the child's life.

The family system is fluid: it consists of properties not found in any single family member, and the whole is greater than the sum of its parts.⁵⁸ A change in one person will produce changes throughout the whole family,

50. Carol Levine & Connie Zuckerman, *Hands On/Hands Off: Why Health Care Professionals Depend on Families but Keep Them at Arm's Length*, 28 J.L. MED. & ETHICS 5, 8 (2000).

51. Babb, *supra* note 6, at 788.

52. BERG-CROSS, *supra* note 49, at 15.

53. Babb, *supra* note 6, at 789.

54. MONICA MCGOLDRICK & RANDY GERSON, *GENOGRAMS IN FAMILY ASSESSMENT* 2 (Penguin Books 1985).

55. Ann Hartman, *Diagrammatic Assessment of Family Relationships*, in PETERS, *supra* note 15.

56. MCGOLDRICK & GERSON, *supra* note 54, at 1.

57. Hartman, *supra* note 55, at 928-30.

58. *Family Systems*, *supra* note 46, at 6.

as the behavior of one member inevitably influences all the others.⁵⁹ By the same token, an individual's behavior in one "setting" or "system" influences not only all family members, but other "settings" or "systems."⁶⁰

Bronfenbrenner's chart I illustrates the "family systems theory" paradigm.⁶¹ He uses arrows to illustrate the permeability of the boundaries among the components of the family system.⁶² Bronfenbrenner brands the most immediate influences upon the child's development as the "microsystem." In it lies the child's immediate and daily contexts and relationships, such as child-parent, child-caregiver, husband-wife, grandparent-child, or child-peer. Bronfenbrenner's next level of interaction is the "mesosystem," the layer of interconnectedness between the child's home and other settings, such as his or her school, religious community and neighborhood. The stronger and more supportive the links between the settings, the more powerful the influence of the "mesosystem" on the child's development.⁶³

Next, Bronfenbrenner illustrates the effect of the "exosystem," the larger settings that have power over the child's life and affect human development, even when the child is not directly involved in them.⁶⁴ The "exosystem" is likely to include extended family members or friends, places of employment, legal services, and social welfare or health providers.⁶⁵ Finally, the meso- and ecosystems are set within a broader ideological, cultural, political, economic or social context, the "macrosystem," which also influences the family unit.⁶⁶ The "macrosystem" incorporates shared assumptions about "how things should be done."⁶⁷ It can cause risks to the family unit by, for example, hindering the ability and willingness of adults to care for children and children to learn from adults, or it can provide an opportunity for encouragement or support of children and families and the magnification of family strengths.⁶⁸

59. *Id.* at 5.

60. BERG-CROSS, *supra* note 49, at 49; Margarette Parrish, *Substance Abuse, Families and the Courts: Legal and Public Health Challenges*, 3 J. HEALTH CARE L. & POL'Y 191, 195-96 (1999).

61. THE CHILD, DEVELOPMENT IN A SOCIAL CONTEXT (Claire B. Kopp & Joanne B. Krakow eds., Addison-Wesley 1982). (citing to A. BRONFENBRENNER, THE ECOLOGY OF HUMAN DEVELOPMENT (Harvard U. Press 1979).

62. *Family Systems*, *supra* note 46, at 6.

63. Babb, *supra* note 6, at 789.

64. *Id.*

65. *Id.*

66. *Id.* at 790.

67. *Id.* at 790.

68. *Id.*

Bronfenbrenner's ecological model helps to identify connections between individuals, family members, and outside forces which otherwise might not be noticed. It helps us look beyond the immediate and the obvious and identify the most significant influences on a family.⁶⁹ The ecological model assists the social science professions "to see the client not as an isolated entity for study, but as part of a complex ecological system"; a journey, which requires skilled navigation and the development of successful coping mechanisms.⁷⁰

Social scientists have been able to portray the ecological model visually through the ecomap. In addition to assisting in organizing and understanding a large amount of factual information, the ecomap is used as a thinking and interviewing tool, a recording keeping mechanism and an aid to measure progress over time.⁷¹

In contrast to the ecomap's depiction of a family in "space," as illustrated in Chart I, the genogram portrays the family system over "time."⁷² A genogram is a "family tree" and records information about family members and their relationships over at least three generations. A series of symbols and lines is used to construct a genogram. These depict male or female family members, linear relationships, and strength of relationships or distance between family members. These also document household composition, births, deaths or adoptions or shifting constellations of family members.⁷³ Chart 2 depicts a typical genogram format.⁷⁴

The genogram helps social scientists identify family members, patterns and events that may have recurring significance over time in a family's life.⁷⁵ It includes the family's entire "cast of characters," including nuclear and extended family members and significant non-family members. By scanning the family system historically and assessing previous life cycle transitions, social scientists can place present family issues in the context of evolutionary patterns, "letting the calendar speak."⁷⁶ The genogram may suggest possible connections between family events, patterns of illnesses, shifts in family relationships, changes in family

69. *Id.*

70. Hartman, *supra* note 55, at 931.

71. *Id.* at 937-40.

72. *Id.* at 940.

73. MCGOLDRICK & GERSON, *supra* note 54, ch. 2.

74. Provided to me by Professor Adela Beckerman. See Patry, *supra* note 2. There is no one correct way to draw a genogram. See MCGOLDRICK & GERSON, *supra* note 54, at 1.

75. MCGOLDRICK & GERSON, *supra* note 54, at 1-2.

76. *Id.* at 3.

structure, and other critical life changes.⁷⁷ It illuminates, across generations, the indefinitely complicated human system that has transmitted powerful commands, role assignments, events, and patterns of living and relating over time.⁷⁸

The genogram is a diagnostic and intervention tool with diverse applications.⁷⁹ A Focused Genogram might be drawn on any number of issues: culture (rituals, traditions, immigration patterns); gender; emotions (anger, love, hate, grief, sadness); attachments; and health or illness (substance abuse, addictions, medical history).⁸⁰ The genogram can also be modified to focus on positive, solution-oriented family patterns.⁸¹ The following questions, for example, might be asked: Who in your family has dealt successfully with this problem? How did they do it? What would you like to see different for you (or your children) in the future?⁸² The individual Focused Genograms may then be collected into one Multifocused Family Genogram, which assesses and organizes information about the biological, psychological and social functioning of the entire family system.⁸³

Given its versatility, the genogram has been adapted for use in a variety of situations, such as: 1) a “placement genogram,” documenting a foster child’s sequential foster home and residential placements; 2) an “academic genogram,” exploring sources of influence, values, life roles, decision-making strategies and barriers to success in the context of career counseling;⁸⁴ or 3) a medical or genetic genogram.⁸⁵

IV. LEGAL APPLICATION OF ECOMAPS AND GENOGRAMS

The use of ecomaps and genograms as integrating devices has gradually crept into the legal profession. The ecological model, for

77. *Id.*

78. Hartman, *supra* note 55, at 940.

79. Sandy Magnuson & Holly E. Shaw, *Adaptations of the Multifaceted Genogram in Counseling, Training, and Supervision*, 11 J. COUNSELING & THERAPY FOR COUPLES & FAMILIES 45, 47 (2003).

80. *Id.*

81. *Id.*

82. *Id.* at 49.

83. RITA DEMARIA ET AL., *FOCUSED GENOGRAMS* xv-xx (Taylor & Francis 1999).

84. Magnuson & Shaw, *supra* note 79, at 50.

85. Daly M. Farmer et al., *Exploring Family Relationships in Cancer Risk Counseling Using the Genogram* (1999), at <http://www.ncbi.nlm.nih.gov/> (last visited on Feb. 4, 2005); Karin Jordan, *The Color-Coded Timeline Trauma Genogram*, 4 BR. TREATMENT & CRISIS INTERVENTION 57 (2004); Rochelle Cooper Dreyfuss & Dorothy Nelkin, *The Jurisprudence of Genetics*, 45 VAND. L. REV. 313, 320 (1992).

example, has been employed in capital penalty hearings⁸⁶ and to encourage the reintegration of parolees into the community.⁸⁷ It has been used to advise family businesses about their legal needs and structures,⁸⁸ and even to teach professional ethics.⁸⁹ The model is increasingly relied upon by attorneys practicing elder law or engaging in estate planning,⁹⁰ while, understandably, the most common appearance of these devices has been in cases involving families and children.⁹¹

A. THE HYPOTHETICAL ROLLE FAMILY

In order to introduce the value of ecomaps and genograms to my students, I utilize a hypothetical centering around the fictional Rolle Family. The Rolle family consists of Miriam, age 24, her two children, Elena, age 6, and Tom, age 1, and her three siblings, Michael, age 14, Maria 16, and Josie, age 17. The African-American Rolle family grew up in a poor neighborhood in transition in Memphis. The crack epidemic hit their community hard. The street on which they live was frequently transformed into a war zone as battles for turf and for "market share" raged. By far the worst event the family incurred was when their father, Michael, Sr., was caught in the cross-fire and killed during a police raid on a vacant house down the street. A few years before his death, Michael, Sr., had purchased the home in which the family now lives, although he had to heavily mortgage the dwelling.

After Dad's death, the children continued to live in the home with their mother, Lucy, but the family's income, of course, decreased considerably. Lucy worked as a domestic, often having several jobs. She provided a loving home for her children, although her resources were limited, and there were few extras in the house. The minor Rolles receive Social Security benefits due to their father's death.

Another tragedy recently befell the Rolle family. Lucy died suddenly

86. Jill Miller, *The Defense Team in Capital Cases*, 31 HOFSTRA L. REV. 1117, 1122-23, 1229 (2003).

87. Jeanne Flavin & David Rosenthal, *La Bodega de La Familia: Supporting Parolees' Reintegration Within a Family Context*, 30 FORDHAM URB. L.J. 1603, 1614-16 (2003).

88. Steven H. Hobbs & Fay Wilson Hobbs, *Family Businesses and the Business of Families: A Consideration of the Role of the Lawyer*, 4 TEX. WESLEYAN L. REV. 153, 159-60, 171 (1998).

89. John Mixon and Robert P. Schuwerk, *The Personal Dimension of Professional Responsibility*, 58 AUT. L. & CONTEMP. PROBS. 87, 103-04, 108 (1995).

90. Steven H. Hobbs & Fay Wilson Hobbs, *The Ethical Management of Assets for Elder Clients: A Context, Role and Law Approach*, 62 FORDHAM L. REV. 1411, 1418 (1994); Richard L. Narva et al., *Sophisticated Estate Planning Techniques Advising Family Firms: Navigating Through the Complex System*, 17 ALI-ABA 239, 256 (1998).

91. See Babb, *supra* note 6; see also *Family Systems*, *supra* note 46.

of a heart attack. Miriam is determined to keep the family together in the family home her mother had sacrificed so much to maintain. Although Miriam, as the oldest child, had been actively involved in helping her mother take care of the younger children, she is faced with daunting challenges in her desire to see her siblings stay together and become adults of whom their parents would be proud.

Michael has had behavior and other problems since he was nine; he first got in trouble with the law for petty shoplifting, right after his father died. This charge was dropped, but soon he was in more trouble, as he was accused of petty theft and breaking and entering. Michael had a hard time relating to his family after his father died, and he kept to himself at home. He was very angry, and his behavior was disruptive. He had serious problems in school. He was frequently suspended for fighting and throwing things at his schoolmates.

When Michael was twelve and had been arrested for the fifth time for breaking and entering, and his mother had just about given up on him. She was at a loss as to how to control his behavior. She asked the state child welfare agency to take custody of him and begged them to provide him with mental health services. He was placed in a regular foster home, but no services were forthcoming. After more disruptive behavior developed, he was placed in a group home. He ran away shortly thereafter, and when he was found, he was placed in a residential treatment facility. That facility ejected him three days later when they received his school records which noted numerous suspensions, as well as truancy. He was placed back mothering his mother's home, where he remained until he committed another delinquent offense. This time he was adjudicated delinquent and placed in a delinquency facility. At this facility, Michael finally got the psychological evaluation he so desperately needed.

The psychological evaluation noted that Michael was suffering from chronic, acute depression, had family bonding problems, had low to average intelligence with some learning disabilities and had unresolved grief issues. It seems Michael was so close to his father that he never got over his death. After he served his sentence, Michael was released into the custody of his mother. On her own, Lucy got Michael some mental health treatment in the community. His condition seemed to be improving until Lucy's death. Since then, his grief has been inconsolable, and everybody says he's acting "crazy." Miriam is beside herself wondering how to get help for him.

Josie has always been a star student. She is in honors science classes and demonstrates a strong talent for art and for dramatics. She has applied

for an optional high school program in performing and visual arts. She is having a hard time getting into this program, but is still interested in pursuing that option. Josie has been a big help to Miriam in caring for Elena and Tom and also has had part-time jobs to help the family financially.

Miriam also has strong concerns about her own two children. The father of Elena and Tom is Jose Santos, a Guatemalan truck driver who established permanent residency status when he married Miriam five years ago. She is devoted to her children. But Jose now lives apart from the family, and Miriam has had to raise the children essentially on her own. Miriam was able to complete high school because she, Jose and Elena lived with Lucy. When they lived together, Jose would come home drunk and beat her, often in front of Elena.

Elena is in first grade and loves school. Tom, however, is developmentally delayed. It is too early to tell the severity of his condition, but at age one, he does not crawl or walk and is slow to respond to directions. Jose beat Miriam when she was pregnant with Tom, and the doctor believes this is the cause of his developmental problems. Miriam now works in an office fifteen hours per week at minimum wage, and when she is at work, Tom is in day care.

After Lucy died, Jose came by one day and informed Miriam that he has tested HIV positive. He wanted to move back in. She refused, and a fight ensued. Miriam had a cut lip, a badly bruised eye, and a sprained wrist. Michael called the police. They walked Jose around the block until he cooled off, but they did not arrest him. Miriam wants to divorce Jose and get on with her life.

The latest blow to the Rolle family came a few months ago, when a neighbor reported Michael, Josie, and Maria to the Department of Children's Services as abandoned children, due to Lucy's death. The three teenagers were removed from home and placed in different shelter care facilities. The case is set for an adjudication of dependency in three weeks. Miriam is determined to keep the family together and make a home for her siblings. She is even willing to have Michael in the household. They're family, she says, and families must stick together. The children desperately want to come home.

Miriam has come to the Child Advocacy Clinic, seeking representation for her three siblings, assistance with her domestic problems and information about sources of income and services for her family. It has been determined that there is no conflict of interest in the representation of Miriam and the three siblings. Indeed, the resolution of the juvenile court

problems of Michael, Maria and Josie also requires resolution of Miriam's domestic violence concerns in order to represent the children holistically. The case has been assigned to two Student Attorneys, and they have completed their interviews and obtained the information summarized above. How do they begin to analyze this complicated case? As a clinical teacher, I would guide the Student Attorneys to draw the family's ecomap and genogram in order to think about creative ways to solve the family's legal problems and to identify the psycholegal soft spots and opportunities they are experiencing.

V. USE OF THESE DEVICES IN A CLINICAL SETTING

While neither the ecomap nor the genogram, alone, are sufficient to elucidate the "Elephant," they serve the Student Attorney very well when used to complement each other. Professor Peters identifies a number of basic ways in which a child's lawyer can use these integrating devices in child protective representation. These tools, she says, can help the attorney integrate a great deal of information quickly, identify and double-check what information is missing and additionally needed, and quickly begin to understand the "child-in-context."⁹² The visual representations can be filled in as new information is received, enabling its quick absorption. When considering the considerable gaps in information in the Rolle Family ecomap and genogram, one can readily analyze and look for other promising sources of critical information.

The Student Attorney can gauge progress in case development over time through the use of these devices.⁹³ While today we may lack critical information to assist the Rolle family, a week from now, armed with our new tools, we will have moved our case development forward. Ecomaps and genograms serve as interviewing tools, enabling the Student Attorney to create a road map of the important facts to gather.⁹⁴ Finally, Peters acknowledges the importance of identifying key biological and non-biological people in the child's universe through the use of these devices.⁹⁵ One immediately thinks about family, extended family, caregivers, neighbors and friends as comprising the child's universe, but the ecomap and genogram also help to clarify that a welter of service providers in the child's life, such as doctors, teachers, and counselors, is also an important

92. PETERS, *supra* note 15, at 108.

93. See generally *Id.*

94. *Id.* at 115; see also HAYDOCK & KNAPP, *supra* note 35, at 54 (describing the need for an opening snapshot in a successful interview).

95. PETERS, *supra* note 15, at 111-12.

element of the child's context.⁹⁶

Since attorneys practicing under Tennessee Rule 40 must identify and seek resources and services that will correct the child's immediate problems and prevent future encounters with the dependency system, the ecomap and genogram also serve as intervention guides. They can identify available placement opportunities or lack thereof within the extended family (as, for example, in the Rolle family where extended family resources appear to be non-existent, necessitating a concentration on neighbors, friends, faith communities, role models, and other like sources of support).

Student Attorneys can also identify which agencies are currently serving the family (such as the Rolles' involvement with doctors, schools, a child care center, and mental health agencies); or which agencies must be recruited to provide services (such as Miriam's needs for domestic violence prevention and intervention services or Michael's need for a mentor or Big Brother). Family systems theory teaches us that these resources can often become as important to the child as the core family unit.⁹⁷

The resource hunt is enhanced when the attorney is capable of identifying family patterns that need to be healed, or at least addressed, in order for the children to experience success within the juvenile court system (e.g., the Rolle family's history of violence needing legal resolution and counseling; the family's series of losses necessitating strong legal argument on behalf of Michael and grief counseling). Rule 40, of course, requires my Student Attorneys to advocate before the court for the provisions of such services.⁹⁸

Building on the inspiration of Professor Peters, I have identified a number of other effective uses of the ecomap and genogram. Not only do these devices help to locate potential child placement options, they indicate which relationships are so important to the child that they must be preserved, either with the assistance of legal intervention or informally.⁹⁹

These devices are powerful counseling tools. In their identification of both family strengths and weaknesses, and of influential forces within the individual and in society in general, they can foster a discussion with the child or with the other parties that is less threatening, less judgmental and more compassionate. In other words, they help "normalize" the

96. *Id.* at 111-12.

97. *See supra* discussion in pp. 16-20.

98. *See supra* discussion in p. 9.

99. J. Curtis McMillen & Victor Groze, *Using Placements Genograms in Child Welfare Practice*, in PETERS, *supra* note 15, app. E.3 at 957-59.

conversation. For example, the lawyer can address with Miriam ways to minimize violence in general in her life rather than blaming her for not breaking the family's pattern of violence. These tools help the lawyer identify the child's and family's goals and develop options or choices for the child or the parents. The lawyer as counselor might emphasize the family's desire for a good education and discuss available services that might help all family members to achieve that goal. The child's lawyer has a neutral method of presenting the information that might otherwise be resisted when she refers to these analytical tools.¹⁰⁰

Such relative neutrality offered by the ecomap and genogram might assist the child's lawyer in helping all parties to put aside the emotions, the anger and the animosity that might have led to the present controversy or juvenile dependency proceeding and in promoting settlement opportunities that encourage the child's best interests to be the center of everyone's concerns. The ecomap and genogram help the contestants to visualize that, indeed, everyone in the child's immediate constellation is important, whether they be labeled parent, "maternal" relative or "paternal" relative, significant other, sibling, friend, neighbor, immediate or extended family. They also help to depict to family members that the immediate controversy is situational and solvable by appealing to the child's needs for good family relationships and by offering services and resource opportunities to assist the family members in protecting the child.¹⁰¹ These devices also might help to elucidate that a family is overwhelmed by too many service providers who are not communicating with each other and focus the Student Attorney on calling a multidisciplinary meeting to come up with a realistic, meaningful family plan.¹⁰²

I have suggested that Student Attorneys might use the ecomap or genogram as a visual aid during opening and closing argument to assist the juvenile court in understanding the complexity of the family system and the importance of the social and other services that the court should order the child welfare agency to provide.¹⁰³ Closely allied to the use of these tools in argument is their use as demonstrative aids in elucidating the testimony of expert witnesses, such as social workers, psychologists and doctors.¹⁰⁴

100. See HAYDOCK & KNAPP, *supra* note 35, at 79-89 (describing what clients need from lawyers in client counseling).

101. See Winick, *supra* note 36, at 316-20 (discussing the way in which Therapeutic Jurisprudence helps clients deal with settlement possibilities).

102. PETERS, *supra* note 15, at 377-80.

103. See THOMAS A. MAUET, TRIAL TECHNIQUES 369 (Little, Brown & Co., 4th ed.1996) (describing the use of demonstrative aids in argument).

104. See *id.* at 156 (describing the use of diagrams as a trial technique).

These tools also help Student Attorneys to choose their theory(ies) or storyline(s) (themes that summarize the attorney's position in the case in an engaging, easily remembered way) and to then develop their case strategy.¹⁰⁵ Since good themes are based on universal truths about people and events,¹⁰⁶ the graphic micro-, meso-, exo-, macro-systems are particularly creative generators of case themes. As a consequence, the ecological model promotes the therapeutic jurisprudential objective of giving the child "voice" by empowering the child to tell his or her own story through counsel.¹⁰⁷ In the Rolle hypothetical, for instance, the following might work well as storylines: 1) we have a family with very strong bonds which has suffered some difficult blows but remains united in the love members have for each other; 2) we have a young man, Michael, a good kid who needs to heal his grief, stay with his remaining family and have some positive male role models in his life); or 3) this is a strong family in need of neighborhood and social supports, not separation.

Student Attorneys may find that individual advocacy for members of the Rolle family in juvenile or domestic relations court is an inadequate remedy for the family's plight. They may find more effective avenues of legal redress in any number of the following ways: 1) policy advocacy (to establish, for example, a subsidized guardianship or relative caregiver stipend through the legislature);¹⁰⁸ 2) community lawyering to mitigate the violence and decay in the Rolle neighborhood;¹⁰⁹ or 3) a class action or impact lawsuit to make mental health services for children such as Michael more readily available.¹¹⁰ The macrosystem ring of the ecological model prompts students to consider such alternative problem-solving techniques.

My students have enriched the application of the ecological model to their understanding of juvenile law in immeasurable ways.¹¹¹ One such

105. *Id.* at 44.

106. *Id.*

107. See Winick, *supra* note 36, at 323.

108. Zawisza, *supra* note 8, at 476; see also BRUCE S. JANSSON, BECOMING AN EFFECTIVE POLICY ADVOCATE (4th ed., Brooks/Cole eds., Thompson 2003).

109. Andrea Seilstad, *Community Building as a Means of Teaching Creative, Cooperative, and Complex Problem Solving in Clinical Legal Education*, 8 CLINICAL L. REV. 445, 451-52 (2002) (describing community lawyering as collaborations with other professions and more empowered groups of people to address problems in under served or under represented communities).

110. See generally Michael J. Dale, *Providing Counsel to Children in Dependency Proceedings in Florida*, 25 NOVA L. REV. 769, 776 (2001) (referencing a statewide Florida class action lawsuit addressing the children's needs for mental health services).

111. Here I must pay tribute to the scores of law students who have struggled to grasp principles from other professions as I have explained them and have preserved, understood or applied them in creative ways. Those who stand out in these endeavors include: Gwyn Fisher,

way is the use of a diagram as an “icebreaking tool” to establish a relationship with the child-client, especially the young child, who may communicate most comfortably by executing a drawing or playing a game.¹¹² The request to “tell me about your family” gets enormously rich responses when the Student Attorney prompts the child to fill in the family tree or the circle. These devices also help fill a Student Attorney’s “bag of tricks” for helping a child feel understood, validated, listened to and important, and to quell anxieties and fears about the upcoming legal proceedings. They help the Student Attorney focus the child’s attention on the good things about their family and to put aside worries about the bad things.

A consistent observation in the Child Advocacy Clinic is that the child’s fear or anxiety about the juvenile court dependency process may cause the child to get in trouble at home, in school or in the community through engaging in atypical behavior, such as fighting, stealing or other wise “acting out.” Our understanding of family systems theory leads us to understand that the stresses and strains of legal system involvement are impacting the other “systems” or “settings” in the child’s life.¹¹³ Students Attorneys have effectively used this knowledge to negotiate alternate resolution of delinquency charges, to prevent school suspensions or expulsions and to quell parents’ overuse of discipline. Indeed, Student Attorneys have used this knowledge to prepare parents, teachers or counselors to be especially vigilant about the child’s behavior, needs and concerns in the week immediately prior to trial, so that the legal case does not unduly interfere with the child’s daily life.

Finally, my Student Attorneys have used these constructs to develop a Focused Legal Genogram (“FLG”) in cases where a child has a long history of juvenile court involvement. The FLG describes all changes in placement experienced by the child as a result of court action, together with dates and the nature of the allegations. The FLG has helped the Student Attorneys to comprehensively understand and chart the legal history of the case and to identify the child’s many custodians. It has enabled the student to quickly give the legal history to the judge in opening remarks. The FLG lends itself to the creation of a storyline (e.g., that the child has experienced too many changes and needs stability or alternatively that none of the

Betty Campbell, Geoffrey Lewter, Michelle Moore-Lindsay, Marquesha Savage, Wendy Villafana, Deena Knopf, Jill Kelly, and Christopher Wilson.

112. See generally Anne Graffam Walker, *Handbook on Questioning Children: A Linguistic Perspective*, in PETERS, *supra* note 15, app. C.3 at 731-45 (suggesting the use of drawings and games when interviewing children).

113. See *supra* discussion in p. 17.

individuals in the child's family tree have given him the consistent nurturing he needs).

The use of the ecological model and the integrating devices of the ecomap and genogram, in summary, have served as a valuable teaching tool to help Student Attorneys "grasp hold of the Elephant." It has enabled me to give my students a visual roadmap to advocacy under Rule 40. In the process, I trust, the clients of the Child Advocacy Clinic have received effective representation in juvenile court.

VI. CONCLUSION

I am ultimately most satisfied with the practice of law when I can help my clients to solve their problems so that they no longer need a court, child welfare or juvenile justice system, or social service agency in their lives. This is ultimately the endeavor of the interdisciplinary, creative problem-solving, and Therapeutic Jurisprudence movements as well. Each movement searches for concrete tools for the advancement of this cause. This article has demonstrated that the ecological model, together with its organizing tools of ecomaps and genograms, offers great promise in the fulfillment of the goals of these approaches, especially since legal scholars and practitioners are only beginning to appreciate the versatility and wide-ranging uses of these devices.

As demonstrated by the Rolle Family hypothetical, these devices illuminate the "Elephant" in its nuances and complexities. They also help clinical students think more expansively and creatively in order to solve their client's problems. There is no better example to illustrate the expansion of student creativity than to close with a student produced reflection on "Elucidating the Elephant."¹¹⁴

Keepers

I am a baby elephant
it took me sixteen months to get here
mommy plays with me, and sprays me
I have keepers and a fence for safety

the people, they come to watch me grow
inside the concrete home I've always known
our little family is atypical
but we get along just fine

114. Geoffrey Lee Lewter, J. D., The University of Memphis, 2003.

now I'm a bigger elephant
now mommy moves a little slower
the new keepers don't talk to the old ones
and they keep it a little too cold here

the people still come to watch me
they want to see me before I "migrate"
the new place sounds good, I can't wait to get there
they say I'll be part of a "breeding pair"

now I'm a grown up elephant
the latest keepers are mad because I'm celibate
the food here is different, and I don't like it
why don't they talk to the keepers who used to buy it?

if I don't do my job, they might sell me
to the Ringling Brothers, so they tell me
but it's hard to perform under pressure
and these keepers only know me by conjecture

now I'm a big bull elephant
full grown, but surly and lonely
this cage and my memory reek of disaster
traded mediocre keepers for a whip and a master

now I'm considering options
this ring thing is a little too noxious
there's an exit with a few people in the way
who cares, forget it, today is the day.¹¹⁵

115. *Id.*

**BRONFENBRENNER'S ECOLOGICAL MODEL OF
HUMAN DEVELOPMENT**

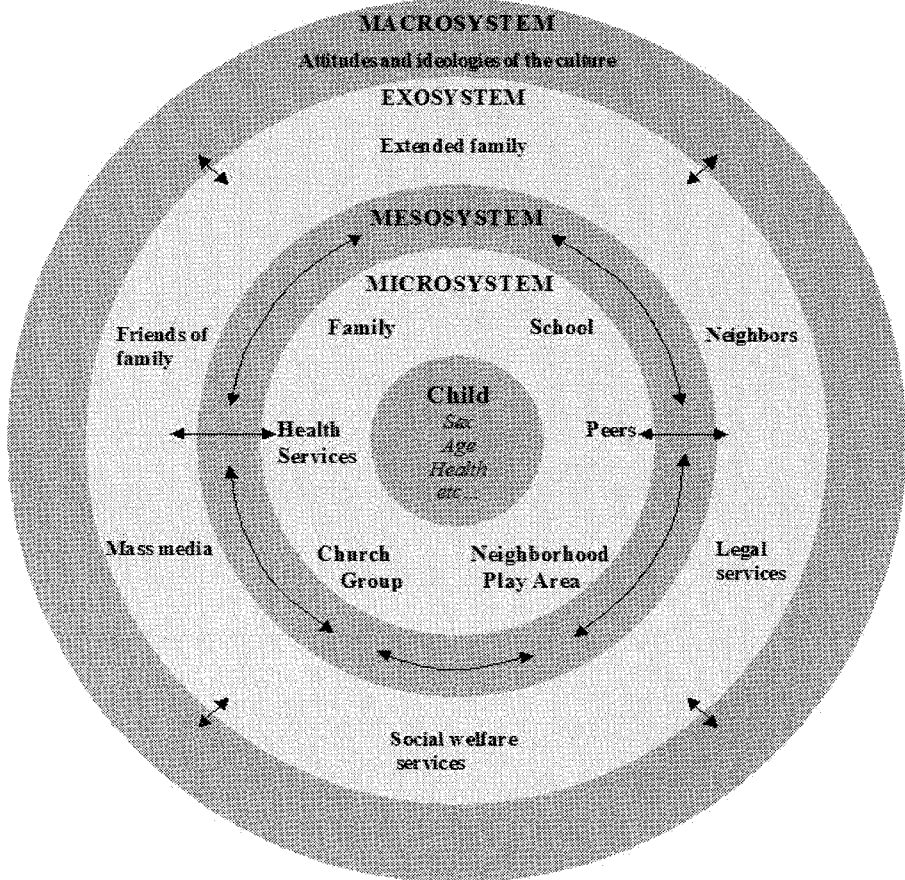
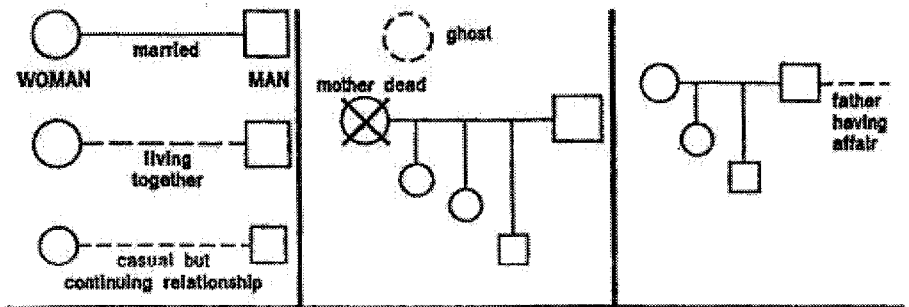
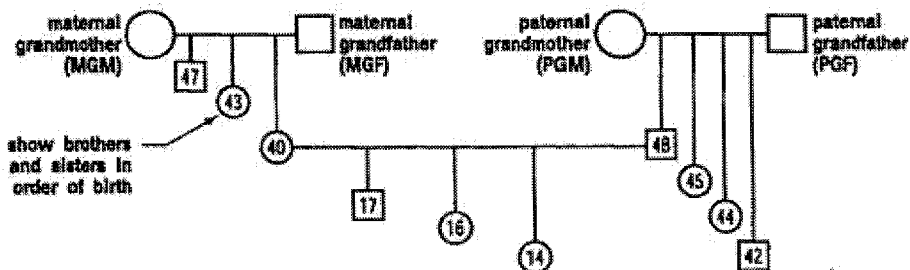


CHART 1

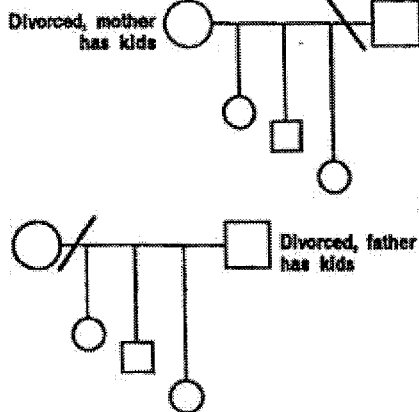
The Genogram



GENERATION FAMILY



SERIAL MARRIAGE AT DIFFERENT TIMES IN A PERSON'S LIFE—DIVORCE



Woman divorced with kids remarries a man divorced without his kids (his wife has kids) and they have one child together

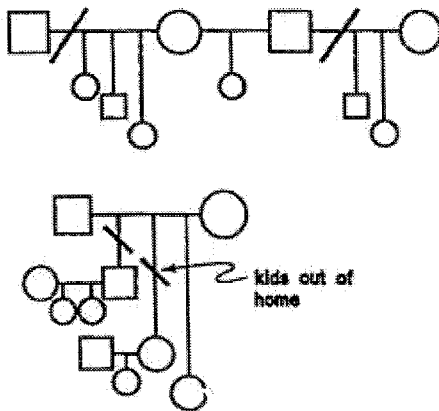
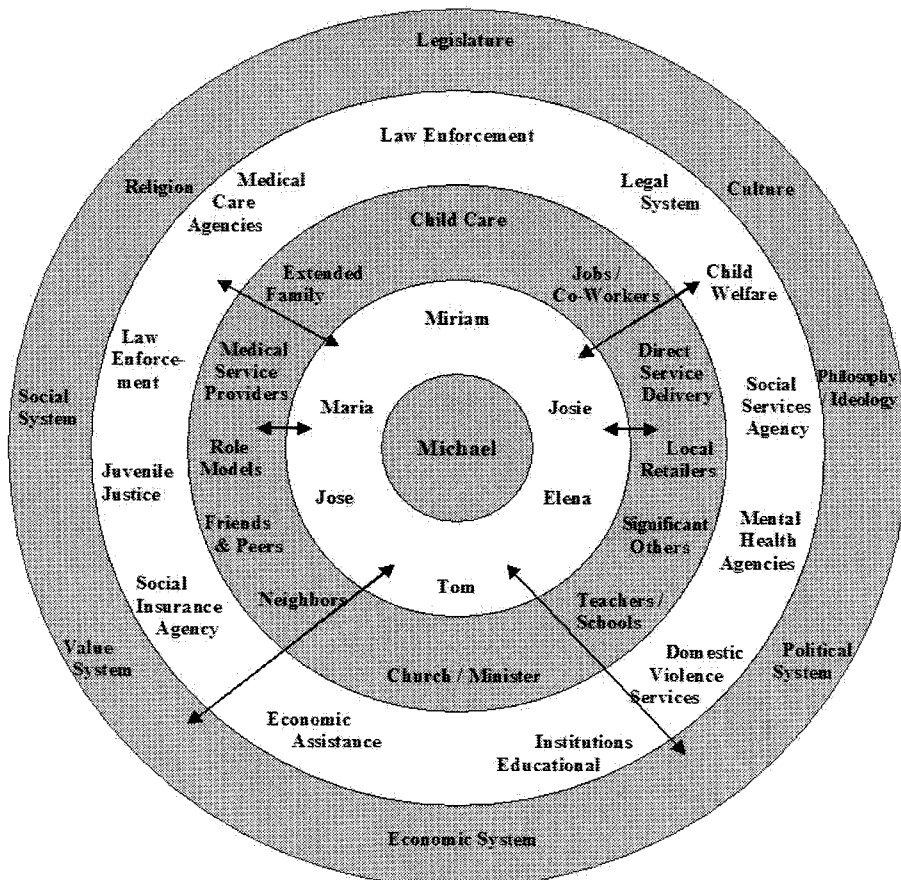


CHART 2

ROLLE FAMILY ECOMAP

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CHART 3

