

High-Quality Legal Representation *in* Safe Babies Court Teams *Considerations for Attorneys*



ZERO TO THREE | ABA Center on Children and the Law

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All children are affected when they come in contact with the child welfare system. Very young children, ages birth to three years, risk particularly severe effects from the trauma of maltreatment, removal and separation from their families, and disruptions in caregivers (i.e., placement changes) while in foster care. Healthy development in early life depends on stable, nurturing caregiving relationships in which children learn to feel safe, loved, and to trust. These relationships provide the foundation for healthy social, emotional, and cognitive development. When this foundation is disrupted, very young children are at risk for developmental problems.

Attorneys handling dependency cases involving very young children must recognize the potential impact of current or prior traumatic experiences. Effective advocacy reflects awareness of trauma's adverse impacts and sequelae. In practice, this means:

- independently investigating cases to understand children's trauma exposure and needs,
- helping identify caregivers who can meet the young child's developmental needs,
- advocating for frequent family time (visitation) that supports healing and strengthening the parent-child relationship, and
- observing very young clients in multiple settings to ensure they are receiving the care and supports they need.

ZERO TO THREE's Safe Babies Court Team™ (SBCT) approach seeks to improve the systems that serve very young children involved with the child welfare system and their families. The approach is designed for children ages birth to three who are in foster care or at risk of removal and their families. These children are in the critical stages of early childhood development and their cases require unique analysis, advocacy, and representation.

SBCTs incorporate 10 core components in practice to improve outcomes for very young children and their families in the dependency court process. Many attributes of high-quality legal representation,

as defined by the Family Justice Initiative (FJI), are reflected in the SBCT approach. FJI developed [these attributes](#) for high-quality legal representation to guide how to make the legal system effective for children and parents.

This resource highlights how the SBCT approach aligns with each FJI attribute to promote high-quality legal representation for children and parents. The first section addresses the need for trauma-responsive legal advocacy, which permeates through each of the following sections correlating to the FJI attributes. Each

Safe Babies Court Team Core Components
1. Judicial and Child Welfare Leadership
2. Local Community Coordinator
3. Active Community Team
4. Pre-/Post- Removal Conferences and Family Team Meetings
5. Continuum of Services for Children and Families
6. Meeting Parents Where They Are
7. Nurturing Parents' Relationships and Building Social Supports within the Community
8. Frequent, Quality Family Time
9. Concurrent Planning
10. System Commitment to Continuous Learning and Improvement

FJI Attributes of High-Quality Legal Representation	
<i>Individual Attorney Attributes:</i>	
1.	Legal Advocacy
2.	Out-of-Court Advocacy
3.	Cultural Humility
4.	Scope of Representation
<i>System Attributes:</i>	
1.	Interdisciplinary Model
2.	Cultural Humility
3.	Timing of Appointment
4.	Support and Oversight
5.	Accountability/Use of Data

section focuses on a FJI attribute and includes recommendations for each attorney type to ensure high-quality legal representation through the SBCT approach.

TRAUMA-RESPONSIVE SUPPORT

Legal representation for very young children and their parents involved with the child welfare system puts trauma at the forefront.¹ Trauma damages parents' and children's capacity to trust others and manage emotional responses. Trauma can affect a child's healthy development by disrupting the child-parent relationship and affecting early brain development. The attachment relationship—the earliest caregiver-child relationship—is essential for a child's developing sense of safety and security.²

A trauma-responsive approach for children and parents fosters a compassionate environment that promotes healing and resilience.

Likewise, a parent's trauma history can affect the attorney-client relationship, the client's interactions or attitudes towards the court, and the client's engagement with professionals and services. Attorneys will benefit from understanding the child's and parent's traumatic experiences and how they may be affecting their clients. Knowing how bias and discrimination,

including systemic bias in the form of structural racism, can be traumatic experiences and can affect case progress is equally important. A trauma-responsive approach for children and parents fosters a compassionate environment that promotes healing and resilience.

Trauma-responsive legal representation recognizes the impact trauma has on physical, emotional, psychological, and behavioral development and well-being. Attorneys' advocacy reflects awareness of clients' traumatic stress and its impacts. Trauma can touch all aspects of a child welfare case. By fostering a compassionate environment that promotes resilience, social connection, and a sense of safety and trust, attorneys can help empower clients with a sense of agency and control. Attorneys can create this environment by:

- being aware of different forms of bias, including structural racism and discrimination.
- understanding family trauma history and the intergenerational transmission of maltreatment, which is strongly associated with family trauma and serious adversities.
- recognizing how trauma can affect the attorney-client relationship and the client's interactions or attitudes towards the court.
- placing understanding and healing at the forefront of their practice when working with child welfare clients.³

General Practice Tips:

- Advocate for frequent, quality family time (visitation) from the start of the case. The SBCT team can work with the parent and child during these interactions to address the trauma created by the removal.
- Identify, locate, and screen relatives and kin placements promptly. Relatives and kin can help reduce the harm from disrupting child-caregiver attachment relationships. Seek expedited Interstate Compact for the Placement of Children (ICPC) home studies for children under age four.

Special Considerations for Children's Attorneys:

- Advocate for the child to remain at home when safe.
- If removal is necessary, advocate for minimal moves and placement changes to avoid disrupting the child's caregiving relationships.

- Ensure that required screenings and assessments are completed to identify the child’s emotional, social, developmental, and medical needs and appropriate services and supports. The Child Abuse Prevention and Treatment Act (CAPTA) requires that states refer all children under age three who have a substantiated case of child abuse or neglect for screening for early intervention services funded by Part C of the Individuals with Disabilities Education Act (IDEA). States have some discretion in setting evaluation criteria; therefore, eligibility definitions vary.
- In each case, treat the parents with respect and recognize that they are experts on their children.
- Recognize that a trauma history can affect parenting styles and behavior, including a parent’s approach to discipline and child-rearing, and how a parent interacts with caseworkers or the court.

INTERDISCIPLINARY MODEL

An interdisciplinary practice model involves teaming an attorney with a parent advocate and a social worker to collectively address and advance the interests of the client. Other professionals may be included in the team based on the needs of a family.⁵

Interdisciplinary Legal Teams

All parent and child clients benefit by having a dedicated legal team that can build trust with and reassure the client that the team is focused on their legal interests in the case. While many parent attorneys are sole practitioners who lack access to interdisciplinary team members, the model is gaining traction in many states and works well by pairing attorneys with contracted social workers and parent advocates. The Family Justice Initiative highlights states like Washington and Colorado that use this model in its [*How-To Guide on Implementing the Interdisciplinary Practice Model*](#). When possible, parent and child clients should have their own interdisciplinary legal team that works alongside the family team in a SBCT setting, described below.

SBCT Family Teams

The SBCT approach aligns with the interdisciplinary legal practice model through a collaborative structure called the “Family Team” comprising cross-system partners, the parents, family members, and other family supports. Professionals on the Family Team include the attorneys involved with the case (child, parent, and agency), the child welfare case manager, parent advocates, and service providers working with the family. The attorney representing the parent or child may also be part of an interdisciplinary legal practice as described above.

The SBCT Family Team proactively problem-solves and works on a comprehensive plan to meet the needs of the family as quickly as possible. The SBCT Family Team works together to create a highly supportive environment for parents that fosters safety and trust. This sends a strong message that their needs matter and leads to greater parent input about

Special Considerations for Parent Attorneys:

All interactions with parents should be strengths-based, respectful, transparent, and compassionate.⁴

- Meet with your client in a quiet, safe space, away from distractions. Clearly explain every step of your client’s case, the court process, and the roles of the parties. Explain the possible outcomes of the proceedings and provide the parent structure and opportunities to control decisions.
- Do not make false promises or tell your client that “everything will be okay.” Be honest and upfront with your client so that she does not feel betrayed, let down, or misled.
- Because trauma manifests in various ways, clients should be professionally screened and assessed through a trauma-responsive mental health assessment to determine appropriate services and treatment.
- Discuss treatment options with parent clients that are trauma-responsive and evidence-based. Advocate for services that help parents address and heal their trauma and understand how trauma affects their parenting abilities and home life.
- Connect parent clients with existing or potential social supports who can help the parent feel less isolated and alone. With the client’s permission, contact extended family, close friends, community, and religious leaders, etc.

Special Considerations for Agency Attorneys:

- Recognize that a family’s involvement with the child welfare system, including a child’s removal from the home, is highly stressful and can be an added source of trauma for parents and children.

Resources

All practice tips and guidelines were incorporated into this resource directly from the sources listed below. To increase the readability of this document, we did not include citations for every practice tip.

[*Effects of Funding Changes on Legal Representation Quality in California Dependency Cases*](#), Washington, DC: ABA Center on Children and the Law, 2020.

Maze, Candice L. [*Advocating for Very Young Children in Dependency Proceedings: The Hallmarks of Effective, Ethical Representation*](#). ABA Center on Children and the Law, October 2010).

National Child Traumatic Stress Network, Justice Consortium Attorney Workgroup Committee [*Trauma: What Child Welfare Attorneys Should Know*](#). Los Angeles, CA and Durham, NC: National Center for Child Stress, 2017.

[*Putting the Science of Early Childhood to Work in the Courtroom: An E-Learning Series for Judges and Attorneys*](#). Washington, DC: Quality Improvement Center for Research-Based Infant-Toddler Court Teams at ZERO TO THREE, 2018.

ZERO TO THREE. [*The Core Components of the Safe Babies Court Team™ Approach*](#).

ZERO TO THREE. [*The Safe Babies Court Team™ Approach: Logic Model*](#).

their needs—thereby elevating the parent voice and empowering parents in the planning process.

In the SBCT approach, the collaborative spirit in the Family Team does not compromise the attorney's duties to zealously advocate for their client's rights and protections under the law. It promotes real-time information sharing and coordination among the professionals supporting all parties in the case. This ensures problems are addressed quickly with meaningful supports and services. Strong communication and teamwork can lead Family Teams to make recommendations to the court that better inform judges' decisions.

Special Considerations for Parent Attorneys:

Ideally, interdisciplinary legal teams should consist of the attorney, parent advocate, and a social worker. Parent advocates should be recognized as critical to the legal team and actively participate in all attorney decisions. The attorney should continuously connect with the parent advocate to share information, discuss updates, and consult on the case. The parent advocate will help promote transparency and open communication between the attorney and the parent. The parent advocate and social worker will work together to determine the best services and resources for the parent.

- Check in with the parent advocate to make sure the parent is being provided needed resources and supports (such as transportation funding, housing, car seats, cribs/toddler beds, food, medicine, utility payments, etc.).
- Raise any cultural or communication barriers with the legal team immediately.
- Allow all members of the legal team time and space to form a relationship with and a connection to the parent.
- The interdisciplinary legal representation team is its own unit and has its own ethical duties and responsibilities to the client. The legal team may choose to keep certain information private and not share it with the Family Team

Special Considerations for Children's Attorneys:

FJI promotes interdisciplinary legal teams for every client in child welfare proceedings. In child welfare cases involving very young children, the interdisciplinary legal team would include the attorney and social worker. A peer advocate would not be a part of this team and instead might be replaced with a developmental expert who can provide insights into the child's well-being, growth, and stability.

LEGAL ADVOCACY

Legal advocacy consists of developing a case theory and legal strategy that support reunification and align with the client's goals. In the SBCT approach, strong legal advocacy includes monthly review hearings, pre- or post-removal conferences, and monthly Family Team meetings. These teams can:

- swiftly identify effective services through regular

- screenings and assessments of children and parents,
- advocate for prevention and intervention services that promote healthy families and family unity, and
- establish mental health, substance use disorder, health care, and parenting services, and other critical community supports.

General Practice Tips:

- Reunification should be the preferred goal and attorneys should not wait until the judicial review or permanency hearing to establish this goal.
- All parties should work together to develop a comprehensive family time plan. The plan should document the frequency, duration, level of supervision, and any therapeutic supports needed by the family. The plan should account for the child's naptimes, feeding schedules, daily routines, etc.⁶
- Use a Family Team that includes an SBCT community coordinator, parent, extended family members or close friends, caseworkers, all attorneys, and local service providers. The Family Team should always meet before and immediately after the child's placement in foster care to help make the family's transition as smooth as possible. Having all stakeholders, including attorneys, come together for Family Team meetings encourages open communication and provides an opportunity for everyone to be heard in a safe space. Regularly scheduled monthly meetings promote timely screenings, assessments, and referrals to programs and services.⁷
- The focus for attorneys on the SBCT should be overcoming barriers to successful reunification or other permanency plan, not placing blame for noncompliance that serves as an obstacle.

Prioritizing the developmental needs of a very young child, along with repairing and strengthening the parent-child relationship and ensuring stable nurturing caregiving environments, is a central focus when representing infants and toddlers served by an SBCT.

Special Considerations for Children's Attorneys:

Prioritizing the developmental needs of a very young child, along with repairing and strengthening the parent-child relationship and ensuring stable

nurturing caregiving environments, is a central focus when representing infants and toddlers served by an SBCT. Because of these children's young age and early developmental stage, children's attorneys must attempt to understand and interpret their client's behaviors and environments. Children's attorneys must be able to evaluate the quality of the child's relationships with parents and caregivers, then use the legal process to promote healthy, safe outcomes for the child.⁸

- Do not allow your own biases, childhood experiences, or personal views influence your assessment of the child's interests. Remember you are focusing on what is best for this client.
- Learn the child's history to better understand how best to advocate for your client. Gather information about prenatal care, any early medical or dental records, immunizations or health screenings, former caretakers before the child became involved in the child welfare system, etc. Talk to family members, doctors, nurses, childcare providers, caregivers, and others in the child's life to gain a better sense of the child.
- Ensure the judge sees your client as more than another number or file in the system.
- Advocate for all recommended screenings, assessments, and services.
- Observe the child's interactions with caregivers. Assess how the child responds to the caregiver and how the caregiver treats the child (verbally and physically).
- Understand the relationship between the parent and child and recognize that the child's responses to a parent may be affected by infrequent visits or lack of opportunity to bond with the parent.
- Use experts, clinicians specializing in early childhood mental health, and service providers to offer testimony and inform judges and caseworkers about young children's unique needs. This testimony may be presented at a judicial review hearing, hearings addressing reunification or TPR, or a special hearing to seek a service or treatment for the client.
- Remember that separation from parents is traumatic for young children (and for parents) and should only happen for safety reasons.

Special Considerations for Parent Attorneys:

Attorneys should actively engage parents in

planning and preparing for all child welfare meetings and proceedings. Parents must have agency over their own case and should feel valued as critical decision makers. In the SBCT approach, this means encouraging parents to participate in the Family Team meetings and helping them understand how much their voice is valued in the child welfare and court process. The following recommendations align with the SBCT approach:

- Communicate openly with parents and involve them in developing an alternative permanency plan as soon as you meet with them. The focus on the concurrent plan is to protect early caregiving relationships, address protective factors, and ensure efforts to promote reunification.
- Advocate for assistance with critical needs, such as transportation, rent payments, utility payments, or health insurance.
- Ensure reasonable efforts to reunify the family are being made.
- Advocate that resource caregivers serve as supports for the parents. Stress the importance of co-parenting in achieving reunification and building relationships between the parents and resource caregivers.

Special Considerations for Agency Attorneys:

Prioritize making the best, most informed arguments for the health and safety of the children and families.

- Hold the agency accountable for making reasonable efforts. Reach out to social workers and case managers if the child welfare agency is not making reasonable efforts.
- Organize Family Team meetings with all attorneys and stakeholders and actively participate.

OUT-OF-COURT ADVOCACY

To provide out-of-court advocacy, the attorney must consistently engage with and establish a relationship with the clients. Attorneys must focus on collaborative problem-solving with parents, social workers, and opposing counsel. The Family Team in the SBCT approach provides the structure for this collaborative problem-solving. The attorney should meet and communicate regularly with clients and before every court hearing. The attorney should counsel clients about all legal matters related to the case, including allegations

related to dependency, the proposed service plan, and the client's rights in the pending proceedings. When referring clients to services or programs, conduct research and consult experts to ensure each program or service is evidence-based or has promising research evidence.

Special Considerations for Children's Attorneys:

Promote physical, social, emotional, and developmental health for child clients.

- Build an attorney-client relationship with the child by getting to know his or her behavior through regular visits and interactions. Hold the child and assess how he reacts when you interact with him. Observe the child's ability to play and interact with his environment. Assess the child's interactions with both caregivers and strangers. If needed, contact experts to help you interpret and better understand the child's behavior.⁹
- Do not rely on the social worker's assessment of the child. Visit the child in her placement whenever possible. Observe the quality of the caregiver-child interactions. Evaluate how the caregiver responds to typical young child behaviors such as mood swings or tantrums and if the caregiver follows the baby's nonverbal cues. Determine if the physical environment allows for safe exploration and play, has age-appropriate toys and books, and is culturally familiar to the child.¹⁰
- Ensure timely access to services and supports that address basic needs and any health concerns that may have been flagged during the initial screenings.
- Make sure everyone connected to the child is following up on recommended services and that you receive progress reports and treatment plan modifications.

Special Considerations for Parent Attorneys:

Work closely with the legal team members to ensure the parent's needs are being met, the client feels heard and valued, and the client fully understands everything about her case.

- Encourage the parent to participate in Family Team meetings and play an active role in these meetings and all proceedings and decisions.
- Ensure timely referrals to mental health and substance use disorder prevention and treatment

services for parents. These services should be high-quality, community based, and trauma-informed. Continue to check-in with the parent and the service providers to make sure that treatment and care is being provided effectively.

- Observe the parent and child interact and document the parent’s engagement with the child. If the parent-child relationship is not strong, refer your client to an early childhood mental health specialist for assessment to determine the appropriate parenting intervention. Some parents may benefit from evidence-based home visiting programs such as Nurse Family Partnership, Early Head Start, and Parents as Teachers. Other families may benefit from a clinical intervention to repair the relationship, such as Child-Parent Psychotherapy, Child First, and Attachment and Biobehavioral Catch-Up.

A guiding principle of the SBCT approach is racial equity and social justice.

Special Considerations for Agency Attorneys:

Stay informed about the services being provided to the family. Advocate for a continuum of care for parents and children.

CULTURAL COMPETENCE

A guiding principle of the SBCT approach is racial equity and social justice. All professionals involved with an SBCT must assess their own biases in working with clients from different racial, cultural, social, and economic differences and consider these differences when serving clients. Attorneys, and the other professionals serving the child and family, should use care not to impose their own ideals and values on a client or family. Instead, they should identify the client’s individual, familial, and cultural strengths. When establishing a case plan or identifying services, attorneys should individualize every case to address the specific, unique needs and goals of each family.

General Practice Tips:

- Be mindful of when and how to plan family time (visitation). Carefully advocate for frequent, quality family time to minimize anxiety and stress for children and parents. Family time should occur as soon as possible after removal in a comfortable, safe

space for the entire family. Consider the parent’s home, the caregiver’s home, a library, an outdoor play space, or other place in the community that is comfortable for the parent and child.

- Immediately after being appointed to a case, all attorneys should come together with the family and child welfare caseworker to create a plan that specifies when families can expect the earliest contact with their child. This plan should establish an ongoing schedule for frequent family time to support the child’s attachment needs and facilitate parent and child bonding.¹¹

Special Considerations for Children’s Attorneys:

Make every effort to understand the unique parent-child and familial relationships.

- Recognize there is no “one size fits all” for parent-child relationships and that families might function differently based on their cultural background.
- Help foster connections with siblings to facilitate familial and cultural connections.

Special Considerations for Parent Attorneys:

- Empower your client to make decisions about her family.
- Assist parents in identifying and connecting to community supports. Find supports and services that exist within the client’s cultural circle.
- Work with a parent advocate or mentor who shares a similar background or culture as the parent.

SUPPORT AND OVERSIGHT

Members of the interdisciplinary legal team and the multidisciplinary SBCT Family Team should be able to clearly define their own roles and expectations. Attorneys in SBCTs should have access to evolving trainings and continuous education opportunities. Attorneys should communicate openly with clients and ask them to give feedback on their representation and the entire court process. Verbal communication with very young children may be limited, so children’s attorneys should explore other ways to communicate with their clients (e.g., through play, drawing pictures together). Consulting with an early childhood mental health clinician may be helpful.

General Practice Tips:

- The National Resource Center for the Infant-Toddler Court Program at ZERO TO THREE provides technical assistance and trainings and facilitates peer-to-peer learning opportunities to support best practice with babies and toddlers and their families. [Learn more.](#)

Special Considerations for Children’s Attorneys:

- Consult resources to learn about basic early child development and the impact of maltreatment on a child’s development.
- Know what community resources exist for young children and their families. Establish contacts with community services providers that provide developmental screenings and immunizations, Part C Early Intervention services, and Infant and Early Childhood Mental Health services.
- Consult with professionals, clinicians, and service providers for help interpreting the child’s behavior or needs.

Special Considerations for Agency Attorneys:

- Monitor progress in the case and work with the child welfare agency to ensure reasonable efforts are being met.

DATA

In the SBCT approach, there should be a firm commitment to collecting data to measure effectiveness and outcomes. SBCT sites use a continuous quality improvement process to measure qualitative and quantitative outcomes in dependency matters. The National Resource Center for the Infant-Toddler Court Program manages a national SBCT Database that sites use to track case and system progress and outcomes and provides sites with tools to assess progress in aligning with the SBCT approach. These data include:

- Type of service referrals
- Timeliness of referrals
- Services received by children and parents
- Frequency of Family Team meetings
- Parent participation in Family Team meetings
- Frequency of court hearings

- Parent participation in court hearings
- Frequency and quality of family time visits
- Number of placement changes
- Length of time to permanency
- Reunification and other permanency outcomes

In addition, the FJI website provides information on [existing research](#) and a data collection tool to monitor progress aligning practice with the attributes of high-quality legal representation. The FJI Data Template can be found [here](#).

General Practice Tips:

- Attorneys and legal teams should prioritize data collection to demonstrate the effectiveness of their representation. For example, recent research shows multidisciplinary representation leads to decreased time to reunification, increased use of kinship care, and significant financial savings.
- Use research on program effectiveness to advocate for increased and adequate funding for high-quality legal representation. A [study](#) on the effects of funding changes on child and parent representation quality in dependency cases showed that increases in funding can lead to improvements in attorney recruitment and retention, availability of multidisciplinary team members such as social workers and parent advocates, and decreases in attorney case-loads.¹²

The SBCT approach stresses the best practice is for families and clients to receive representation before the start of a child welfare proceeding, as soon as they come to the attention of child welfare services.

TIMING OF APPOINTMENT

Clients in SBCTs should receive representation throughout the case. Attorneys should be appointed and meet with their clients before any court appearance. The SBCT approach stresses the best practice is for families and clients to receive representation before the start of a child welfare proceeding, as soon as they come to the attention of child welfare services.

CONCLUSION

The SBCT approach aligns closely with the FJI attributes of high-quality legal representation. Very young children and their parents deserve the best possible representation in child welfare cases, ensuring procedural fairness and the best possible outcomes. Research shows quality legal representation is linked to increased party engagement, improved case planning, and swifter permanency. As SBCTs realize these benefits, the high-quality practices adopted in Court Team sites can extend to other cases in the jurisdiction. This raises the level of representation provided to all parents, children, and the child welfare agency in dependency cases.

Endnotes

1. National Child Traumatic Stress Network, Justice Consortium Attorney Workgroup Committee. *Trauma: What Child Welfare Attorneys Should Know*. Los Angeles, CA and Durham, NC: National Center for Child Stress, 2017.
2. Goldman Fraser, Jenifer & Eva Klain, “Advocacy for Infants and Toddlers: The Urgency of a Trauma- and Developmentally-Informed Approach.” *The Guardian* 42(1), January/February 2020.
3. National Child Traumatic Stress Network, Justice Consortium Attorney Workgroup Committee, 2017.
4. Ibid.
5. Parent advocates may also be referred to as peer mentors, peer advocates, or parent ambassadors. They are people with lived experience who work as part of the legal team to support the parents.
6. Maze, October 2010, 39.
7. ZERO TO THREE, 2020.
8. Maze, October 2010, 1.
9. Maze, October 2010, 10.
10. Ibid.
11. ZERO TO THREE, 2020, 10..
12. *Effects of Funding Changes on Legal Representation Quality in California Dependency Cases*. Washington, DC: ABA Center on Children and the Law, 2020. Available at https://www.americanbar.org/content/dam/aba/administrative/child_law/calrep-assessment.pdf



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