

REACTION TO *DISCOVERING FAMILY DEFENSE: A HISTORY OF THE
FAMILY DEFENSE CLINIC AT NEW YORK UNIVERSITY SCHOOL OF LAW*
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I am honored to provide a reaction to *Discovering Family Defense: A History of the Family Defense Clinic at New York University School of Law*, and will start where Chris Gottlieb left off. When I was fortunate enough to start working on national Standards of Representation for Parents’ Attorneys in 2005, I, like Marty Guggenheim, Maddie Kurtz and Chris Gottlieb, had no idea I was stepping into a new field that was about to grow exponentially. I did not know Marty, Chris and their colleagues from New York would, along with a handful of other advocates from only four states, lead the country in seeing the importance of high quality, interdisciplinary practice and making necessary reforms for families. I did not know that Marty and Sue Jacobs from the Center for Family Representation would co-chair the Steering Committee of the National Alliance for Parent Representation which grew from representing those original five states to now having leaders from 21 states, a national listserv of over 1100 parents’ attorneys, biennial national conferences, and the ability to provide training and technical assistance in every state. The NYU Family Defense Clinic did the hard work of imagining a more just child welfare system, and the American Bar Association Center on Children and the Law has the privilege of sharing the vision and trying to make it a reality for families across the United States.

In reading the article, I was struck by the responses the Clinic received from the New York Child Welfare community. On the one hand, law guardians, foster care agencies and even the Administration for Children’s Services (ACS) referred clients to the clinic because they saw the positive results the clinic’s clients experienced and that it was clearly the best representation for families.¹ On the other, the students and faculty were faced with an astonishing amount of hostility from the professionals at the courthouse. Maddie said “No one needed—or wanted—our support, and few had interest in our ideas. Not only was it apparent that our clients were despised, but we were too.”²

Too often, even 28 years after the NYU clinic’s founding, parents and their lawyers are painted as people who are not focused on the child’s safety. This could not be further from the truth. Parents are the people who most care about and love their children, and the defense bar has responsibility to message this truth to the rest of the stakeholders in the child welfare system. When describing how the legal team was essential to supporting parents for the long-term, Maddie shared, “My sights shifted from what needs to be accomplished to get our client’s children home to include, for example, what is needed for the family to have the best

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1. Chris Gottlieb, Martin Guggenheim, Madeleine Kurtz, *Discovering Family Defense: A History of the Family Defense Clinic at New York University School of Law*, 41 N.Y.U. RLSC 539, 552 (2017) [<https://perma.cc/A8UB-D7BJ>].

2. *Id.* at 554.

chance of remaining together and thriving.”³ By building on a family’s strengths and counseling parents to obtain the necessary help they need, the parents’ attorneys play an essential role in supporting safe, healthy families.

While much of the hostility against family defense attorneys has disappeared in New York City, in many parts of the country child welfare professionals, both agency and legal, continue to view parents with disdain. Despite knowing that the vast majority of children are removed from their families because of neglect (too often a code for poverty), parents are viewed as the enemy, and their attorneys are viewed no better. A county in New York State, for example, recently turned down millions of dollars that would have been used to implement an interdisciplinary representation model, because the child welfare agency feared what would happen when parents received high quality representation. We have moved the system forward since Marty started the clinic in 1990, but there is a long way to go until each family is respected for their strengths, and the child welfare legal community values the role of the parent’s legal team.

The article also emphasized the evolution of designing an interdisciplinary model of representing parents. This concept developed as Marty and Maddie realized the importance of serving clients during out of court meetings, and ACS pushed back against having lawyers in the room. Marty shared, “we became interdisciplinary not because we realized in advance the many benefits of such a collaboration but because our adversaries made us do so... In retrospect, there is no more important change that we made to the conception of family defense than that the parent defender teams must be interdisciplinary.”⁴ Maddie explained that once social workers were on the team, “we were able to serve our clients more fully as individuals.”⁵ This should be the goal for all parents’ attorneys.

By 2005, zealous out of court advocacy for clients and the interdisciplinary model of representation were well-accepted best practices in New York City. The Center for Family Representation documented positive outcomes for their clients as a result of these practices.⁶ When Chris and Sue Jacobs advised the Standards drafting committee to include these practices, the group agreed. We knew, for many in the country, the idea of expanding beyond under-resourced solo practitioners representing parents would be revolutionary and seem far-fetched, but we knew this best practice was where we wanted to lead the field.

In the years since the Standards became official ABA policy, the National Alliance is holding steadfast to these two elements, the interdisciplinary model and zealous out-of-court advocacy, as linchpins of high quality legal representation for parents. They are part of every document we have released, every training we conduct, and every one of our five national conferences. At the end of the 2017 National Parent Attorney Conference, a group of social workers and parent

3. *Id.* at 556.

4. *Id.* at 547.

5. *Id.* at 551.

6. *Highlights From Fifteen Years of Accomplishment*, CENTER FOR FAMILY REPRESENTATION, <https://www.cfrny.org/about-us/our-results/> [<https://perma.cc/GFH4-JGAL>].

mentors who serve on interdisciplinary representation teams realized many of their colleagues were at the conference. While they were motivated by the speakers and excited by everything they learned, they wanted to have a conference focused on the non-legal aspects of representation in these types of cases. With social worker supervisors from the Center for Family Representation and the Washington Office of Parental Defense as co-chairs, we gathered a committee of social workers and parent mentors from around the country to plan a convening. The meeting took place in Chicago in May 2018. We had participants from 24 states, and are encouraged that so many people are either already representing parents using this holistic approach, or plan to start doing so after learning from those who have fine-tuned the approach. The conference was a success on many levels. A parent advocate from the Bronx Defenders kicked off the meeting with an inspiring address about her own case and the work she does to support families currently in the system. Other parent advocates from around the country lent their voices to the lunch program and a number of workshops. Social workers from many interdisciplinary programs shared strategies on ensuring the model is effective for clients in open and honest conversations that focused on race, poverty, injustice and how legal teams can overcome these barriers for clients. There was consensus among participants that we should try to organize a similar convening in 2020.

This convening was a step forward in the family defense movement that Marty started in 1990. It is a national acknowledgement that the model of representation NYU began is the best hope for families living in poverty who are involved in the child welfare system. It will provide practitioners from around the country the opportunity to learn from each other and realize they are not alone in the work they do. We will continue to grow the community that, as Chris said, “they can count on to inspire them and be deep in it with them.”⁷

7. Gottlieb et. al., *supra* note 1, at 568.