

**BT Brian**

OK. Perfect. There we go. Well, thank you, judge. We appreciate your time and your taking time to meet with us today. I'm going to pin you so that you're filling my whole screen so we are the region four CRP, legislatively mandated to review cases and make recommendations to the legislature.

**JE Judge Ellis**

Alright.

**BT Brian**

And we have reviewed many, many cases here in region four. I'm sure most of those cases you have touched in one way or another as well. We appreciate your time. I don't know if you would prefer to like jump in and just maybe share some of your thoughts and what you're seeing, or if you want us to follow with or kind of lead with questions or what would be your preference. We have some questions but would love to kind of see what your preference is.

**JE Judge Ellis**

I have no preference, I just want to confirm everyone can hear me alright.

**BT Brian**

Thumbs up.

**JE Judge Ellis**

Teresa Vance was your liaison to me, and she shared with me a list of questions that she believes you that you wanted me to address. I have certainly reviewed those and I'd be delighted to go through and give you my responses, but it also can be a little sterile for me just to read through a list of questions and respond if there were, it might be more lively conversation if there were some burning questions that people wanted to throw at me right out of the gate. I'm happy to answer anything you'd like to know. So why don't we start there? If there's any big questions that anyone has, I will happily start there and then once we've exhausted those, I'll turn to the questions that were provided.

**BT Brian**

Excellent. OK, I will put out mine. I've had a number of discussions recently with some foster families and some legislators, and we are seeing not in official documents, but in the reports that we're hearing back from foster families, that misinformation has been provided to you as the judge, information that the foster families would consider to be totally inaccurate and the kinds of information that would perhaps even affect your opinion on how the case is progressing and what kinds of decisions are being made. What as the judge do you do? First of all, if you were aware of those, do you have a remedy for that as a judge? Second of all, how important would it be for you to know about those? Maybe I'll just start with those two questions.

**JE Judge Ellis**

The remedy is a tough one to answer in that. Day to day when I'm conducting these hearings and processing child protection cases, there's not much call for me to issue remedies. The ultimate outcome of these cases, as you're all well aware, is to achieve permanency one way or another with children. It's troubling to hear that there are foster parents saying that they're being misrepresented or having false information about them, or false statements attributed to them. My feedback to the foster parent community would be to say they have an absolute right to be heard at these hearings, and that right does not have to be an in-person statement to the court. I always, in Ada County, the foster parents are always invited to court and in every hearing, I invite the foster parents to speak. Typically, the prompt question that I give them is how are the kids doing? Because they have the most information about that, and I don't often then prompt them to go into other areas or concerns that they have, but speaking in court is not the only way they can get information to me. I do have foster parents, say one out of 10 cases, write a letter, which they're able to, to tell me exactly what's going on with the kids and share with me any other information and that's entirely proper. It just needs to be provided to the caseworker or to the guardian ad litem or to a party to the case that can then be distributed to all of the parties in the case prior to hearing, so that they all have the same information walking into the hearing, and so if that information could be pushed back out to the foster parent community that they do have that right to share that share information in that format. Then I and other judges can hear it straight from the horse's mouth, so to speak, and a letter that's comes from them and not being filtered through a department report or a Guardian report.

**BT Brian**

Yeah, I think that's great feedback. I, as a former foster parent and having attended court, it's incredibly intimidating to be in there and to know, especially that you're not party to the case and not certain about what your role is. So, I think that's great feedback. And so you're saying that prior to a scheduled court hearing, a foster family could submit a letter that would need to go through. Now, if their conflict was with the caseworker, for example, could they submit that through the guardian as well?

**JE Judge Ellis**

Absolutely.

**BT Brian**

OK.

**JE Judge Ellis**

The issue that needs to be avoided is ex parte contact with the court, meaning that if there's a communication to the judge, all the parties have to be aware of the information and so the graceful way is to give it to a party.

**BT Brian**

Yeah.

**JE Judge Ellis**

They could give it to the caseworker if they're on good terms, they could give it to the guardian. They also could go straight to the prosecutor on their case, the state's attorney, and say we have grievance with both the caseworker and the guardian and we don't feel our voice is being heard, but we would like this information to be given to the judge if they've got a line with the parents attorneys, they can also get the information to them. Any of the parties can distribute through discovery process a letter from the foster parents of the court, and that would them properly, yes.

**NN Nicole**

So I have kind of a follow-up question. It's my understanding that the prosecutor

determines what information you get. And if they decide that you don't need the information, then they just don't submit that to you, and that there has been documentation and whatnot that has been left out because of the prosecutors discretion.

JE

**Judge Andrew Ellis** 43:04

That is true. I will share with all of you. You know my history, which is that I was a prosecutor doing child protection cases in Ada County for 11 years before I was appointed to the bench to do child protection for the past 10, and it was a it was a rude, rude shock when I went on the bench because as a prosecutor I had information, I had all the information. I could talk to the caseworkers. I could talk to parents, attorneys. I could talk to the guardian ad litem through their attorneys. I could send out an investigator from my office to gather as much information about any given case that I wanted. Truly, the prosecutor, the parents, attorneys, the Guardian that items attorney, they all have incredible access to information. The court has none of that. The court's only way of getting information is that which is submitted to the court by any of the parties. So I would quibble just a touch to say that the parents attorneys equally have some gatekeeping function. The guardian ad litem's attorney has equal gatekeeping function. All of the attorneys, all the parties that children's attorneys that the youths, attorneys, they all have a gatekeeping function in which they either share it with the court or they don't. And so I went from being a prosecutor where I was drinking out of a virtual fire hose of information, and then suddenly was sitting back in my chambers, where I'm sitting right now and I just get this tiny little drip, drip, drip, drip of information that comes exclusively from reports and what I'm told in court, and it drove me crazy then, still does kind of drive me crazy because I know there's so much more information out there. But the way our system works is that it's all got to be shared equally, and all the attorneys are responsible for sharing information to the court. And I can't send an investigator out, I can't look into things on my own, so I have to rely solely on what's shared with me by the parties.

BT

**Brian**

If you were made aware of something substantively false that was represented to you as the Judge in a CP case, what happens from that? Let just say the guardian or a social worker patently misrepresent some facts and that's brought to you attention,

is it basically just a don't do that again or I mean if a normal person did that, it seems like would be found in contempt. I don't know what happens then, but so I'm just curious because this is a repeated issue that I've heard and they're usually on relatively significant cases where there's a significant amount of conflict happening and it starts to turn into some, you know, and again, I can't verify any of this, but I'm hearing this as a repeated concern. And so I guess I'm curious what you as a judge feel like would be the consequence of that, if you could ascertain that it was in fact false?

**JE Judge Ellis**

I'll respond in two ways, if I am convinced that any party in a court proceeding and a child protection proceeding is lying to me and I can back it up with some substantial evidence that is going to result in an admonishment from the bench to the party, be it a social worker, be it a parent, be it a guardian ad litem and the good news is that Judges in our community are still held in respect, and so nobody that I know of likes to be told by a Judge that they did something improper and that they needed to straighten up and fly right, and it tends to have an impact. So that's just kind of on a basic level that nobody likes to be called into the principal's office and chewed out. But on a more sort of practical level, is that the information that I am receiving as the Judge, I am using to make decisions at certain critical points along the way and so, if I become aware that I have been deceived, purposely so by any of the parties, and it comes time to make a decision that goes in favor or against that particular party, then what tends to happen is that the decisions go against that party. If the Department of Health and Welfare has come in and they have given me a whole bunch of hogwash that a parent is unfit and that reunification is not a possibility because of XY and Z, and those things are proven to be patently false, or more commonly, that I learned that the social worker might have not been as diligent as they should be in getting referrals out or following up on services, and I'm getting conflicting information sometimes from the Guardian that says, you know, the visits really go a whole lot better than is represented in the department report, then there are times that that results in me thinking that the outcome of the case is that children should be returned over the department's objections to the parents. And I have that authority, and I can revert a case back to protective supervision and take all authority out of the Department of Health and Welfare's hands as to where a child is. So I guess I think that's the best answer I can give that way.

**BT Brian**

OK.

**JE Judge Ellis**

If I learn that I'm being lied to and I have a way that I reach a junction where I can go left or right, I can decide which way I'm going. It will come as little surprise to all of you, I think, that the parents that we are working with, who are struggling with mental health issues and substance abuse issues and criminality issues and poverty issues and all of the dreariness that comes along with these cases, they lied to me all the time and I call them on it and a lot of times it has some usefulness and they correct their behavior and they know not to do that in the future.

**BT Brian**

Thank you.

**JE Judge Ellis**

And then I have others who lie to me all the way down to the very end of a very long termination trial, insisting that their reality is true and that they are not lying to me, and I end up terminating the rights to their kids and they don't longer parents. So that's how I handle it.

**BT Brian**

OK, very good, thank you. I appreciate that.

**JE Judge Ellis**

You bet.

**BT Brian**

Next, do we have other questions we wanna pose before he jumps into the ones that we noted down?

**JE Judge Ellis**

All right.

**BT Brian**

Well, why don't we just move down the list then.

**JE Judge Ellis**

You bet. The first one I've already could have touched on that was processed related questions about information gets the judge ahead of time and concerns about information they believe not be reaching the judge. I will not repeat myself too much. I will say that the report said give filed not to the court are the lifeblood of these cases. Every time I do a training, particularly with parents and attorneys, I urge them to have their clients file affidavits. It's not just that the Guardian and the department get to file affidavits. Anybody can file an affidavit. Parents should, and I think it's to their benefit for them to also contribute their voice. Kids who are over 12 have an attorney. They are welcome to file affidavits or letters to the court. Foster parents is noted. So, if there can be training that put out to all the participants to let them know that they don't have to sit passively by, that they have the ability to share with the court and speaking only for myself, but I think this is true of every colleague I've talked to around the state who does this, we live and die by those reports. We sit in our chambers, and we read those things very, very thoroughly. So having that information is how we do our work, how we get prepared, how we get ready to go into court for the supplemental information that comes in through the process. The next question was my perspective on hearing from foster families and court. We've also touched on this uh, there was a concern that some judges are not interested in hearing from foster families and their perspective, how children are doing. I can't speak for my fellow colleagues. I'd be troubled if the judges were not hearing from the foster families. They have a right to be heard. I, for one, am absolutely convinced that nobody knows what's going on with our foster children more than the foster parents, and they live with them 24/7. They know all about the tantrums. They know all about the joys. They know all about the things they're interested in. They know all about the sleepless nights. They know about the sniffles and the flus and the medical issues and the counseling and their response to counseling, their response to a visit? You know, our foster parents know more about these kids and any of the rest of us. And so, I think it's really critical that the court hear from them and the messaging we should be sharing with our foster parent

community is that they are, sadly from my perspective, not a party to the case, but they are certainly a participant. And they should be encouraged to share.

**BT Brian**

So let's say that you had feedback from a foster parent saying, hey, we're observing visits. Child's coming back traumatized. They don't appear to be doing well in these visits, and the caseworkers saying hey, visits are going great. You've got basically diametrically opposite viewpoints. You've got the caseworker who has standing, and then you got the foster parent who's kind of an invitee to share their opinion. How would you weigh those two as you're evaluating whether or not progress is being made in the case?

**JE Judge Ellis**

A large part of what we have to do as judges is weigh credibility, and there's no particular secret sauce to that. We'll just have to rely upon our own life experience, and I guess days in and days out of people telling us things, and refining our antenna as to what we believe is credible versus incredible. So it's not an easy question to answer other than to say if I've got a social worker who I've worked with repeatedly that I know is kind of lackadaisical and not really all that clued in, and I have some questions about their work and they're telling me, ah, it's all fine and it fits with a consistent theme that I've seen from that particular worker where they're just kind of wanting to get those cases over with and not really want to do the hard work. And then I've got a very credible seeming foster parent who's telling me no, things aren't fine, these kids are really struggling, then I'm going to find the foster parent recitation far more persuasive. Yeah, that's still the one benefit that I have being the only judge in town in Ada County doing these cases is that I work with the same social worker cohort over and over and over again, and so I am developing an opinion as to the quality of their work based on their reports, based on themes that I see come up in their case management, and so that goes a lot into what I'm doing as well is that if I'm working with a social worker who I would trust with my own children and would lie down on the tracks for what they say, it's going to carry a huge amount of weight. But if I've got other foster case managers that I feel like are just suffering an enormous amount of burnout and are probably days away from putting in their notice, you know what they say may not carry as much weight. So, a long-winded way of saying I listened to both and I weigh a number of factors in



determining what I think is more credible.

Next question is whether you feel the court calendar impacts your ability to move things along and accordance with the best interest of the kids. We are, and again, I know I'm only speaking for the great state of Ada when I say this, because we are such a large county because we have the ability to specialize as the courts. Because I do this day in and day out and this is all I have on my calendar, I have a tremendous amount of ability, availability and opportunity to set a lot of hearings in a very quick, timely fashion for these cases. So I feel pretty darn good about my ability to set a hearing fast and move these cases along on the on the timeline. And I can. I don't go much more than two months before I see any given family for review hearing or six-month review, so I'm seeing families a lot and that has the benefit of moving these cases forward because the data points are crazy. Kids go home at court hearings. They've run the data on us nationwide and there is a direct correlation between the frequency of hearings and when kids go home, or we move to permanency. So, the more hearings we have, the faster these cases are going overall. And because I have the availability to set a lot of hearings, we're moving cases pretty quickly in Ada County. I do hear horror stories, however, of other places around the state, and I'll encounter other judges who tell me that sort of casually mentioned they're going to the termination trial and they're four years into a case, and that just blows my mind because we're doing termination trials at nine months. We're doing termination trials at 6 months. We're doing trial hopefully no later than 15 months, so that's a local culture that I feel pretty passionate about. But I do understand that in other places without the opportunities and the resources of Ada County, they're trying to jam these child protection cases into an otherwise very full schedule, and they don't have the luxury that I do have here. So, I understand how privileged I am with my calendar and the resources that have been given to me and here in Ada County. I know that's not true elsewhere.

Next question was how much do you value the child's input on their permanent placement when it comes to guardianship versus adoption? I'd be curious if the brave soul who wrote this question or asked about this wants to share a little bit more with me. Maybe I could target my answer a bit better.

**CG** **Carlos**

Yeah, so sorry. I'm in the vehicle right now, but my question, I guess was more.

**JE Judge Ellis**

Go ahead.

**CG Carlos**

My name is Carlos, I'm a little new to the panel. My input mainly was that I was just curious, do you ever get situations where a child's very adamant about one way or another how they would like to proceed with their placement in in all of this? I know they're still a child, so they can't really speak for themselves, but I'm just curious how much that matters in situations that are more divided than others, or maybe perhaps it's not very clear on what the best decision and resolution is.

**JE Judge Ellis**

Sure. Thank you. That helps a lot. It's the entire game for kids who are 12 and older. The reason being that kids who are over 12 have to agree to be adopted, so if I have a case with a youth over 12 years or older and they state through no uncertain terms that they do not wish to be adopted by anybody, but they would be open to a guardianship with grandma or open to a guardianship with the family friend that entirely decides my decision, I won't go to termination and adoption if I've got a kid over the age of 12 telling me that they will not be adopted because I'm not gonna waste the child's time, and I'm not going to waste the States, I'm not gonna waste all of our time for something that won't have the outcome that we want for kids under 12. They don't have that absolute veto authority. But speaking only for myself, what kids tell me is incredibly persuasive. This drives parents really nuts at the beginning of these cases because the kids in those abuse cases, we've got cases that start because a child tells their teacher, Mom hit me and then they go to cares and they tell cares Mom hit me and then Mom shows up for the shelter care of the adjudicatory and says I never hit the kid, why do you believe my kid, he's a liar. And I will tell mom 99 times out of 100, I believe your child has nothing to gain by lying to us, and so, generally, for better or for worse, I am putting an enormous amount of weight in what the kids tell me for the state to terminate parental rights. In particular, they have to not only prove that conditions exist to terminate, but they also have to show that it's in the child's best interest to terminate parental rights. And if I've got a child who's willing, not willing, but wants to tell me I don't want to be adopted by anyone else, even if that child's six or seven, that is a huge hurdle for the state to

clear and showing by clear and convincing evidence that it's in the child's best interest to terminate their parents' parental rights. So it is enormously influential in my decision making, what the child tells us about their permanency and the flip side of that is that my expectation, even in the worst of cases where we've got years of trauma and neglect and really horrible things happening to these kids at the hands of their parent, I'm still expecting that kid to tell me they want to go home on day one because that's the culture that they grew up in. That's what they know. We all have an enormous loyalty to our parents. That's just natural. They want to get home no matter what has happened to them. So when I have a kid tell me they don't want to go home if I have a child who tells me that they want their parents parental rights terminated, that is such an outlier that it is also extraordinarily persuasive that I know something's very rotten if a kid has reached a point that they do not wish to return home and they're that traumatized, so I hope that answers your question, Carlos.

**CG** **Carlos**

No, thank you very much. I actually maybe feel a lot better about all of this, I have to be honest.

**JE** **Judge Ellis**

Very good.

**CG** **Carlos**

Thank you.

**BT** **Brian**

Judge, can I follow up with another question on guardianship as long as we're kind of on that topic?

**JE** **Judge Ellis**

Sure.

**BT** **Brian**

So if you had, if you had a let's just say you've got fictive kin who are willing to adopt, do you? It seems like we've seen cases where, in fact I spoke with a foster family about a year ago, they were anxious to adopt and you approved guardianship.

Do you see benefits of guardianship over adoption, or how do you weigh those as far as when you're trying to make a decision on like a long term uh decision there?

**JE** Judge Ellis

Sure. I'll answer that in two ways. If the placement is going to be a relative, meaning if it's grandma who's going to adopt, or if it's aunt and uncle who's going to adopt, or any relative, I don't have a huge preference whether it goes down as a guardianship or an adoption. The reason being that having done this a while, I know through joyful and bitter experience, that the moment the state is out of this family's life, the family's gonna do whatever they want to do. I know that there's any number of adoptions out there that I've approved where the kids are living back with their birth parents because the grandmother has just handed the kids back over and so long as that kid stays out of the system, we're not going in to intervene again. The same is true of guardianship. I know that the moment we turn our back on these families, and by that I mean we turn away from them and they're not under our microscope, they are going to make decisions as a family that they believe are in the child's best interests and, a lot of times that means kids are returned to their birth parent and I've got guardianships that aren't being really exercised and it's kind of an end around on us. So long as I've got a responsible adult that we've vetted, either through adoption or guardianship, who knows that it's their job to keep the kids safe. And if they're, on estimation, the kids are safe with their birth parents and they're checking in, I'm hoping they're checking in. I can't guarantee they're checking in, but so long as somebody has got legal authority to keep these kids safe, you know, then we have done what we can. We can't go around to handhold every family in our community that's got some struggles, so I tell families all the time that if we're at permanency and reunification is not an option, can the kids with grandma, with the aunt, with the uncle, I'll say you guys choose what it is you want to do because sometimes the family very much needs an adoption because they need the subsidy and they need the Medicaid funding and they need all the financial benefit to come with adoption. Sometimes the family doesn't need that at all, and they they're offended by the termination, and they'd rather just do it as a guardianship. So, in a family, a relative placement that I often just ask directly to the family, you know, what would you like to me to do? And 99 times out of 100, I will follow what the family asked me to do as a whole, Grandma, Grandpa, parents and so forth. So that's question, that's answer #1 to the situation, Brian, that I think you're discussing, there

are times I can think of three times recently. There is an unavoidable legal reality that the hurdle to clear to terminate parental rights is rightfully very high. The state has to prove two things by clear and convincing evidence for termination to happen. First is that there is some condition to terminate, and secondly that it's in the child's best interest in three very notable cases that I can remember, the kids were out of the home for going on two years. The kids were fiercely bonded to their foster parents. The kids' lives in their foster homes were infinitely better than what they were prior in the birth families home, and there was really no assurance that if the kids were to return to the parents, that their life would be appreciably better. The issue, and all of those three cases that I can think of, is that the state was not going to be able to prove that conditions existed to terminate parental rights, that the parents had limped, not to a place where they would be great parents, but they had limped to a point where they would be just barely good enough parents, meaning that they might, they would be able to provide a shelter, and who, with incredible assistance from the state, provide enough resources to feed and clothe the child and with tremendous help from the school districts, they would get this kid maybe to graduation. But. They had done just enough by complying with my court orders, jumping through the hoops, going to their visits with their kids and showing in those visits that they at least could change a diaper or that they could ask about a kid's day, that in each of those cases I knew the state, and I sit on these cases from day one to the end, I knew the state was not going to be able to meet their burden to terminate parental rights because they wouldn't be able to show a condition. They would have best interest by the truckloads, comparing what the kids' lives would be with the foster parents versus back with their birth parents night and day difference that the outcomes would be infinitely better with the foster parent. And yeah, we could go on and on, but it's clearly in the child's best interest to remain with the foster parents. But the state, because the burden of proof is so high to terminate parental rights, wouldn't be able to make it. And so instead of condemning, in my mind, those kids to a life of mediocrity and quite frankly, sort of suboptimal living, I approved guardianship because there is a different standard for a guardianship. You don't have to prove by clear and convincing evidence that you have to terminate, right? You just have to prove by a preponderance of the evidence, which is a much lower standard, that it's in the child's best interest and that the parents have some fundamental reason that they can't provide a stable home environment. And so, the burden of a guardianship is so much lower, and it gets the kids where they need to

be, meaning staying with these amazing foster parents now and every one of those three cases, I know that the foster parents shot daggers at me. They wanted to adopt these kids, they wanted to be done and I, you know, I'd said over and over in hearings, I hear you. I wish I could do this, but I just don't have the legal authority to terminate rights, but I want to keep these kids exactly where they are and thus, I went the guardianship route. Now, I will share with all of you what I don't share in court hearing, which is that from these three cases and others like it, all that's keeping the parents involved is spite. Meaning, they're only doing what they need to do because they don't want to be told by the state that they are doing something wrong. And so, they stick it out. Not because I believe that they have any great desire to be parents, but because they don't want the state to tell them that they're bad and so in the back of my mind I am certain in every one of those cases, the moment guardianship goes through, the parents are going to be out. They are not going to stick around. They're not going to continue to be participants in their kids' lives because the state isn't there hovering over them, telling them they're bad parents. I think they will all evaporate into the wind and then a year or two down the road, the guardian parents can file termination and privately adopt a child. And that's fully what I expect to happen. I can't say that on the record, but I'll share with all of you.

**BT** **Brian**

Yeah.

**JE** **Judge Ellis**

I'm not. No, it's not a private comment. I'll happily stand on my soapbox and say that to the statesman, but that's really my thinking is, let's leave these kids where they ought to be, where the guardianship, and then once the state no longer involved, I expect the parents will disappear. And then the parent, the Guardians, can privately terminate and adopt. It's just going to take a while longer.

**BT** **Brian**

So with the capital requirement to file for termination if a child is in care for 15 out of 22 months, that doesn't in and of itself create a standard that says the termination should be or could be granted just based on the fact that the parent has been an unable to care for their own child during those 15 out of 22 months. Or could that be

used as a standalone argument to show that they are not capable of being, you know, the guardian of the child? I guess I'm just trying to understand how that time frame weighs into that decision.

**JE Judge Ellis**

Understood. That is a federal law that requires us to do that. The state law has determination of parental rights, it is not a condition to terminate parental rights just because of duration of time.

**BT Brian**

OK.

**JE Judge Ellis**

It is a definition of neglect which you can terminate parental rights for, if the child has been in care for 15 out of the last 22 months, and in the end's important, the parents have failed to comply with court orders. So if the parents have not done what the court has ordered them to do through their case plan, then yes, we can terminate their rights because at 15 out of 22 and failure these three cases that I can distinctly remember. The issue was the parents complied with their case plan. They've done everything that they've been ordered to do by me, hadn't really made much difference in their general approach to life. But they weren't using drugs. They were going to their counselor faithfully. They were employed, you know, they had ticked all the boxes, and they were in compliance with the case plan. And so that wasn't available to us as grounds to terminate parental rights.

**BT Brian**

So theoretically, then, you could have a case that could go into perpetuity. If you don't grant guardianship, and the parents continue to just tick those boxes, and there's no and, I can't remember the legal standard to use, but the clear and obvious evidence that they're not able to provide a home, that 15 months can come and go three years could come and go, theoretically. And the state could still not be able to prove the termination is justified and also not show that the home safe enough for a child to be returned is. Is that true?

**JE Judge Ellis**

Theoretically, it's possible.

**BT Brian**

OK. How do you manage that then so that it doesn't do that? Is guardianship the answer to that? Or is that just not a likely outcome in reality?

**JE Judge Ellis**

Guardianships are a good solution for it, but the way this case would work in front of me is that we get to 12 months, our first permanency hearing, and I'm called on at that time to decide what the plan is going to be, so I'll assess a case and I'll say OK, the parents have checked all of the boxes. They've done everything on their case plan. But the issue is that the visits go very poorly, meaning that the kids respond very negatively to their parents. Foster parents are telling me that the kids have night terrors after their time with the parents. And so, in that situation, I'm going to say, well, I don't have a condition to terminate parental rights, but reunification obviously is not on the table right now, but we're gonna keep working on it. So, I will say well, I'll approve continued efforts at reunification as our permanency goal and the other critical finding that I then have to make is that there are compelling reasons not to pursue termination of parental rights. That's a different question, so I may at 12 months say we need to keep working in this case, but I don't know at this time whether there are compelling reasons not to terminate. So, we'll come back in three months because I have to make that finding by the 15-month mark of the case and we'll see what happens over the course of the next three months. And you know, we're not going to sit idly by if we've got a situation where we're just not sure what we need to unstick it. That's when we really start getting creative. We have a long conversation at the permanency hearing, what else can we do for this family? What other additional counseling do we put in place? What other services have we not thought about? We reevaluate these cases pretty much every hearing we have, but certainly the permanency and say what can we do to move this case forward because it feels pretty stuck right now. We come back in two to three months, if it's still stuck and the parents haven't done a whole lot to unstick it, then at that point I just say, well, I think this state might be able to show that we've given them 15 months and despite all of the services being put in place, the parents just can't meet a minimum



threshold of care, and then I'll route it toward termination. I can also hit that 15-month mark and say, well, we've kind of made some minimal progress and maybe these additional services are working, and we just need to give them some more time. And those cases are the ones that can sort of creep along and I'll get to 15 months, get to 18 months, get to 20 months.

**BT** **Brian**  
Shutting.

**JE** **Judge Ellis**  
And, you know, I'll say there's no harder cases for me as a judge because you just desperately want the case to be finished. You want the kids to be in their permanent home so that they can be kids again, not having social workers and judges and lawyers, people circling all around them.

**BT** **Brian**  
Sure.

**JE** **Judge Andrew Ellis** 1:19:26  
You want them just to have a life and, yeah, those cases are pretty few and far between.

**BT** **Brian**  
Yep.

**JE** **Judge Ellis**  
I'll say in general.

**BT** **Brian**  
Excellent. Thank you.

**JE** **Judge Ellis**  
You bet. Alright, the next the only two other questions which I'll get to that one was from your perspective, what could be done by everyone involved to shorten the cases? The most obvious answer to me is that wherever you are, whatever

jurisdiction, whatever county you're in, that if you're a guardian ad litem, attorney, if you're a parent attorney, if you're a States Attorney, if the judge isn't inclined to do it on their own, is to advocate for more frequent hearings because there's just no doubt that more hearings result in faster cases one way or another. And so more judicial review tends to move these things along. That's the one that is immediately in there, the other one is kind of, I hesitate to say this, it sounds a little flippant, but it really is just everyone should do their job. Uh, meaning that everyone's got a role and we can all actively have a commitment to moving these cases as quickly as possible and speed is not the goal. Safety is the goal. Making sure these kids are well cared for is the goal, so it's not a triumph to send kids home in three months and have them then be back in care in a couple of months because they've been neglected again. So, you know, moving these cases as speedily as possible, while always prioritizing safety of the kids and meaningful change by the family to change their culture so that this doesn't ever happen again. If they can prevent it, you know, that should always be the goal. But everybody's got a role to play in that, you know, the social workers obviously are kind of the linchpin for me. They need to be in frequent contact with their clients, the parents, they need to be making sure that the referrals are in place for the services, they need to be following up on the referrals to make sure that those services are actually getting implemented and make sure the parents are doing them. The parents really are, I guess now that I'm thinking about it, you know, parents have the most important role to play in how fast these cases go, they either get with the program and they address the things that they need to address and, you know, their kids are home in two months and the case is closed in four, or they can steadfastly deny for the first ten months of a case that they don't have a methamphetamine addiction and then finally admit to that in month 10 and then we really can get somewhere because they're willing to participate in treatment and work on their sobriety. So, parents have a role. Social workers have a role. Judges have a role. All of the attorneys involved need to be assisting and helping their clients and providing great representation and being creative about moving these cases forward. So, if we all do our jobs, then hopefully these cases go as quickly as they can.

**BT** **Brian**

So, speaking of all the attorneys involved, do you see that the majority of kids over 12 have their own attorney or is that more of a rarity, or does that never happen?

**JE Judge Ellis**

Uh, I can only speak for Ada County, 100% of kids over 12 have an attorney in Ada County. I hope that all the judges in the rest of the 4th District are following the law because it is the law.

**BT Brian**

OK.

**JE Judge Ellis**

All kids over 12 get an attorney, so they should be having one.

**BT Brian**

Yep.

**JE Judge Ellis**

And if they don't, then I'd urge the other participants and parties in the case to highlight to the court to say, hey, judge, we need an attorney appointed for John, he's 12 or he's 14 or he's 17.

**BT Brian**

And that's a public defender in all cases right now, is that correct? Well at least in the vast majority of the cases.

**JE Judge Ellis**

That's how the counties are doing it, at least in Ada County, there are the public defenders.

**BT Brian**

Can't.

**JE Judge Ellis**

Office has a roster of conflict attorneys that they contract to do that, and I think that's the same statewide.

**BT Brian**

OK.

**JE Judge Ellis**

But each county can figure out how they want to do that. So, the county commissioners could choose to just do a private contract with an attorney locally to provide that service for kids.

**BT Brian**

Do those attorneys have to be practicing in family law or CRP trained? Or could they be, like, a corporate litigation attorney and just somehow get a case dumped on them that they have really no idea what to do with?

**JE Judge Ellis**

The latter, it could be anybody. I will say that there are efforts made by the Idaho State bar through the Child Protection Bar section to provide resources for any attorney who's interested in this period of law to get more training.

**BT Brian**

OK.

**JE Judge Ellis**

And again, in Ada County, we're very lucky and privileged that we can have a small group of attorneys who do these cases over and over again and have a bit of a specialty so we're not handing over these kids to some random corporate attorney and saying good luck, but.

**BT Brian**

OK.

**JE Judge Andrew Ellis** 1:25:26

In you know where I grew up in Adams County, where there are two attorneys total in the whole county. If there's a kid who came into care over the age of 12, I suspect

the Adams County commissioners are finding an attorney out of Payette or Fruitland, and that person's coming up and they may or may not have any particular.

**BT Brian**  
Yeah.

**JE Judge Ellis**  
Experience representing CP case.

**BT Brian**  
But at least here in Ada County, experiences that they're decently familiar attorneys that are familiar with child protection and how to represent kids and in kind of the whole process thing?

**JE Judge Ellis**  
Yes, which isn't to say when they first get the contract that they have that experience, but over sheer repetition and the 10, 15 cases that they'll get in their first year, they will rapidly become expert.

**BT Brian**  
Yeah. OK.

**JE Judge Ellis**  
But in in smaller jurisdictions, without the volume that we do, you know, if you've got an attorney who just has one or two of these and they may. Yeah, I'm not gonna shine you all on and say everybody.

**BT Brian**  
Yeah.

**JE Judge Ellis**  
Every attorney touches these things has a great deal of experience, but.

**BT Brian**  
Excellent. OK, good. Thank you.

**JE Judge Ellis**

Alright, you bet. The final question that, and I'm not saying we can't ask others, but what would you change if you had a magic wand to make things better for kids in the system? Major obstacles or barriers that exist in the system today. I really enjoyed thinking about this question. I guess at the heart of it, all of it boiled down to money, sadly. But the first thing that I would do if I had a magic wand is that I would be able to put every single family that has a child in the system in a house, because that is, to my mind, the biggest obstacle that my parents on my docket face is housing instability. I think through hard experience watching family after family struggle with this, that until you have a house, until you have an apartment, until you have a place that you can call your own that you're not in danger of being thrown out of tomorrow, it is very hard for you to do anything else. All high and mighty of me as a judge to say you need to get sober and you need to get a job and you need to go to counseling and you need to do parenting education classes and you need to do all the things that we put on a case plan. When I'm working with a set of parents who are living out of a car that doesn't work, you know, they're just sleeping in their car and it's kind of Maslow's hierarchy of needs that if you don't have shelter, if you don't have heat and all the everything else.

**BT Brian**

Yeah.

**JE Judge Ellis**

I'm asking these families to do just kind of goes by the wayside. So I truly wish that I had, you know, 300 apartments or houses that were available to me as a judge that I could immediately put a family in, and I don't care if they're using. I don't care if they're, you know, got criminal cases, just putting people in the house gives them a stability to a foundation that we could move from and so if I were king of the world, that's what I would focus on first is getting housing for all of our folks. It would have to be subsidized because they don't have two nickels to rub together. They've got to be able to be put in housing somewhere that they can, you know, base out of and then then everything else hopefully will fall into line. Some people, even with housing, can't do it. But as a baseline, that's where we need to start. So that's my #1 magic. My #2 is to triple the number of foster homes in the state so that every kid in

the comes into our system gets into a family, into a home with a family and not into a short-term rental, not into a group home situation. So, we need to triple our foster parents, and that would take a lot of money to recruit and retain. So, we need three times the number of foster parents. We need to double our number of social workers so that all of the social workers working here in Ada County and elsewhere around the state, that we can reduce their caseload by half and then they would be right about the point they might be able to serve adequately all the people that they work with, so we need to double that. I think that's it. Housing for everybody, three times the number of foster homes, and twice the number of social workers. And then we'll be cooking with gas.

**BT Brian**

Easy, easy.

**JE Judge Ellis**

Easy.

**BT Brian**

You made a statement in there that that reminded me of, and I don't wanna move away from those three points, but you made a statement that reminded me, we met with the Ada County Detectives Office of a year, a year and a half ago. And they mentioned that there are times that criminal cases have conflicts with CP cases. We have an active investigation ongoing, perhaps even restraining orders at the same time that we have a parallel CP case going where we've got reunification efforts. Are there mechanisms in the court system that allow you to be aware of what's happening on the criminal side or on the civil it on the criminal paths so that you aren't approving stuff that's, you know, in conflict with the child's best interest there?

**JE Judge Ellis**

Yeah, it's a big issue. And I'd say the issue is more that the mission of a CP case is to work intensively with the birth parents to get their kids home, and that's our focus. A criminal case with the parents hooked on trafficking, you know, large amounts of methamphetamine.

**BT** **Brian**

Yeah.

**JE** **Judge Ellis**

The criminal case has no concern about the outcome of the CP case and no consideration about what's in the best interest of the child and so. Can't tell you the number of cases where we've been working with parents, you know they're making progress because having their kids in care is really motivating. And so, we're making good progress. They demonstrate sobriety and they're a joy to work with in my arena and very respectful of me. And then bam, they get a felony dropped on them that could have a mandatory minimum of three years, and suddenly they're no longer an option. Happens all the time unfortunately, and I don't have an answer for it. I mean, I think that, you know, my goal will continue to be working with parents however they come to me, warts and all. I'll try to, you know, build them up and get their kids home if it's possible. But I also understand we've got a requirement in our society to hold people accountable for real, serious offenses. And so, I will trust the criminal side of things to do what's right by these folks and have them serve whatever consequence those courts feel is necessary, and I will continue to do my job. But yes, there's always a tension. We try very hard. I mean, all that said, no contact orders. We try very hard to coordinate between the criminal cases, in our case to make sure, if possible, to allow there be exceptions to the no contact order such that visits can happen and we can continue allowing contact between the parents and their kids, even if it's not full-time return. And there can be correspondence between the judges. We're all 1 unified court system. I have access to all of the records from all cases around the state, so I can pull up and look at a criminal case, and I do so with frequency to determine what the status of things are and where what the timelines are on those cases, and similarly the judges on the 5th floor and the 2nd floor are looking at my cases to figure out what we can do. So there is some coordination between the courts and the parties can always encourage the courts to even collaborate even more.

**BT** **Brian**

OK.



**JE Judge Ellis**  
And we'll do something.

**BT Brian**  
Excellent. I have asked all the questions. Anyone else have questions you wanna bring up?

**NN Nicole**  
I do. Judge, I have you tied down to this little box right now and I wanna take advantage of it.

**JE Judge Ellis**  
Please do.

**NN Nicole**  
First, I just wanna say thank you because you are the judge that gave me my son and he's wonderful and I love him very much. So, thank you for that.

**JE Judge Ellis**  
You're welcome.

**NN Nicole**  
One of the things that I'm really passionate about in this whole child protection thing is the ability to look back and see how the decisions that we made two years ago, five years ago, 5 minutes ago, ended up, right. If we don't look at the decisions we've made in the past, that in that time we thought this is the best decision that I can make for this child, and I appreciate the gravity of the decisions. I worked in healthcare for a long time, and if we treated heart attack patients the same way, people would still be dying like they were 20 and 30 years ago from heart attacks. So by looking back and getting everyone involved from the 911 dispatcher to the cardiologist and the Cath lab, we have made those changes and I don't necessarily see that happening in child protection. I don't see everybody getting together from the person that takes the phone call with the report of child abuse to yourself, who makes those decisions kind of coming together and saying how do we make this

whole thing better and then looking back also at some of the decisions that maybe you made five years ago and seeing how that worked so that you make better decisions going forward. And so I have brought that up in our group many times. They're probably tired of me talking about it, but some of the pushback that I have gotten is no judge would ever participate in that. And I'm curious to know if there was a situation like that, and I know in health care there is a law that allows health care providers to, umm, review cases together for the purpose of improvement that does not allow any lawsuits or anybody to be sued based on what they talk about in these reviews. And so, if something similar existed, is that something that you would be interested in participating in?

**JE Judge Ellis**  
Yes.

**NN Nicole**  
OK.

**JE Judge Ellis**  
I can't speak for any other judge. I'd be happy to do that, and I'd be fascinated to see what would come of it. I can tell you that the kind of postmortem that you're discussing doesn't happen in the sense of the team and everyone who touched it kind of getting together and I guess a lot of thought would have to go into exactly where in the process, I mean, it has to be when the case was over one way or another.

**NN Nicole**  
Sure.

**JE Judge Ellis**  
And if the case went termination of parental rights, I'm not sure how interested the parents would be in participating in a postmortem to talk about, you know, to go back and review what is undoubtedly the most traumatic thing that's ever happened to them, losing their kids forever. But I'm probably not thinking creatively enough about how it is, I'd leave it to you and others to come up with that process. I will say that there is an extraordinary number of reviews going on. In fact, I'd say almost to

the distraction of us doing our jobs, I think Teresa Vance is on the line, you know, we are gathering so much data and manipulating it every which way to try and figure out what we could do to improve practice. The Department of Health and Welfare is also collecting that amount of data, plus the Department of Health and Welfare is having annual reviews.

**NN Nicole**

Sure.

**JE Judge Ellis**

Whether, you know, they're sending people around the state, pulling social workers away from the front to send them up north to pull case files and do case reviews, and so there's an awful lot of reviewing happening of these cases. And then the feds come in every three or four years, and they pull 70 cases, and they review these things from start to finish. The one difference being is not the medical care practice of pulling all the parties together and sitting in a room. That's a new novel approach, but certainly case reviews go ahead.

**NN Nicole**

So in health care, I would say it's not novel, it's been around for a long time and I've seen it work and I've seen patients go from the doors to the emergency room or the 911 call to having their heart blockage cleared in 18 minutes when that used to be 3 to 4 hours and it's been an incredible difference in physical outcomes for those patients and because that's the kind of work that I did for so many years was creating those systems and building that ability to review from beginning to end, get everybody in a room and there is huge value to getting everybody in a room and talking.

**JE Judge Ellis**

Sure.

**NN Nicole**

And so I think my magic wand would be, you know, once a year, there's three days, there's three cases and everybody comes, everybody comes. And you all sit in a room together and review it from the person that took that phone call to yourself, who

makes the final decisions, whether the case is open or closed. Honestly, whoever touched that case from the Guardian ad litem, law enforcement, umm, anybody that that is involved be able to come and say, for the benefit of other kids and the system, what went well? What do we want to keep doing and what should we do better in the future, as well as having the ability to look back at outcomes 5 years from now and say, yeah, these kids are in their 20s now, but you extend an invitation to say, come, let us know, how did we do? What could we have done better and take that moving forward to make better decisions as well? So that's my magic wand.

**JE** **Judge Ellis**

I like it. I like it. Let me know when to show up.

**BT** **Brian**

Yeah.

**NN** **Nicole**

Thank you.

**JE** **Judge Ellis**

You're so welcome.

**BT** **Brian**

Other questions? Merritt, I knew you had to have a question.

**DM** **Merritt**

OK, sorry. Umm and I apologize, I was teaching so that's why I'm just joining. And so Brian, I was asking if you asked any questions about the Guardian ad litem attorneys.

**BT** **Brian**

No.

**DM** **Merritt**

OK. Hello, Judge Ellis. Thank you so much for being here. Umm, I am curious what you're seeing with respect to whether or not the Guardian ad litem are getting

council in your court and how often that's happening, and if they're coming in at the beginning or the middle of a case, that type of information.

**JE** **Judge Ellis**

So I'm seeing guardian ad litem well. The way we do guardian ad litem representation in Ada County is that the CASA program recruits and retains a roster of approximately 75 volunteer attorneys who are then assigned to assist Guardian ad litem. We're always needing to recharge the ranks of that roster, and I haven't heard recently from Casa program that they've, you know, they're down attorneys that they desperately need the ranks refilled. But I think right now we're doing pretty good as far as covering these cases. So, I appoint the Guardian ad litem, at the time the petition is filed on day one, that goes out to the CASA program, they typically identify a guardian ad litem to cover the case within the first 30 days. And I'm seeing almost simultaneously, the volunteer attorneys filing their notice of appearance. So, I think it's often a package deal that once they identify the Guardian, they identify an attorney to cover the case. So, we're doing pretty well from my perspective, as far as making sure the guardians have attorneys, and it's usually happening within about a 30-day time frame.

**DM** **Merritt**

This is kind of a difficult question, but do you have an impression of the quality of representation for the Guardian ad litem and what is the, maybe from your perspective, the value of the representation of the jails?

**JE** **Judge Ellis**

We draw some pretty talented attorneys from some of the large firms to do this work, and so the legal minds that we have representing the guardians are pretty impressive. I'd say overall I see, even though I'm told we have a roster of about 75, there's probably about 25 of those attorneys who can't get enough. And they cover 678 of these cases. And by doing that year in and year out, they have a great deal of expertise in these cases. So, I'm really comfortable with the level of representation. It's a rare case that the Guardian needs to do much legal work beyond what the guardians role is. So, the guardian, of course, is out doing their investigation. And they're talking to all the parties. And they're preparing their reports and in most cases, the attorney's role is to be the gatekeeper for the report, meaning they get the

report from the Guardian and they tidy it up a little bit, do a read through and make sure there's no grammatical errors and to make sure that it's their best foot forward and then forward it along and to be honest, I think that's kind of mostly the gig. Once in a blue moon, a guardian volunteer attorney is going to catch that whopper and there's some novel legal issue. Often it has to do with reports that a new substance abuse agency is reluctant to hand over to the Guardian or encountering a new hospital, some outpatient place that says no, you can't just walk in here with an order and get my, you know, our patients history. Have you heard of such a thing as HIPAA? And that's when the attorneys have to earn their volunteer hours by actually getting on the phone and calling the other attorneys for these various places and saying here's the deal, a child protection case. Yes indeed, my client actually does get access to that information and talk through it. That's the feedback that I hear where the lion's share of guardian ad litem attorney work is done is behind the scenes. There's a lot of interfacing with the department. Inevitably, there's cycles, where the guardian ad litem program and the department get caught cross wise and a little testy with each other. And then that needs to be sort of diffused instead of the Guardian. The attorneys help a lot with that, but when it comes to the court hearings themselves, uh, there's not a lot of heavy lifting that is even really necessary for the Guardian ad litem, attorneys, they largely in response to my questions say we've got nothing to add from our report. And that's all they say that help or hurt.

**DM Merritt**

Yes, thank you.

**BT Brian**

Umm can I add on to that? I'm familiar with the very recent case where the Guardian was pushed out of the case by pressure from the department because the Guardian was advocating for something different than the department's desire. Umm, it seems like in that case, a well appointed attorney would be able to make that known in an appropriate way to you, and I would assume that if you were aware of that, you would or you'd want to be made aware of that so that you could evaluate that and everything that you're trying to evaluate about the way it case is being, you know, executed is I, I mean my own personal case that got me into all the reform I've been doing for the last several years. We desperately needed a guardian who was well counseled so she could advocate with strength for the child that we felt was not

being, the best interest of that child was not being served, and so it does seem like the Guardian is kind of that key linchpin. It's almost like the counterbalance to the entire system because the Guardian sole purpose is to advocate, you know, for the best interest of that child, irrespective of every other element in the case. But sometimes those guardians are either timid or ill trained or unaware of how to approach things in court so that it's made known to the judges appropriately. And so I do see the need for good representation there, so that guardians maybe have a little bit more muster in what they're what they're doing. And have you seen that or do you really not, from your side of the equation, do you feel like guardians are pretty well spoken and pretty well able to communicate what their concerns are?

**JE** **Judge Ellis**

I'll say that it rarely comes up in my courtroom that I get feedback, directly or indirectly, that the guardians don't feel like their position is being heard.

**BT** **Brian**

Yeah.

**JE** **Judge Ellis**

Mostly because they all they have the power of the pen and my local CASA program has done the thing that I am so, so happy about which is that they're guardians file a report for every hearing, regardless of whether it's a six-month review or just one of my status hearings that I'm holding every two months. So, the Guardians are encouraged to write reports for every single hearing, and that means their voice is being consistently heard. I'll just, I guess, ditto, or put my stamp on yes, guardians need to have quality legal representation. As in any proceeding, they should have an attorney who knows what they're doing. That they've got some working familiarity with the area of law that they're in. That's the basic professional responsibility of any attorney for any hearing is to come in knowing your stuff and be prepared to advocate zealously on behalf of your client. And does that happen all the time? Absolutely not. You know, we're all, as a human system, filled with varying levels of competence, but. I can't agree strongly enough with that sentiment that guardians should all have really good attorneys to help them experience.

**BT** **Brian**

Yep.

**JE** **Judge Ellis**

Can't demand they be experienced, but at least people who put in the time to learn about what type of hearing it is and are ready to advocate. I don't know if we're talking about the same case that you mentioned, you know, in that there was rumors of a guardian being pushed out. I had a recent case where the Guardian did excellent work and wrote very direct and thorough reports that highlighted a lot of the failings of the parent and the parent hated that level of reporting on them and this was a matter of much discussion in court. The Guardian was well represented by an attorney who zealously advocated and said, hey, Jack, my clients just doing what you asked him to do. I did reinforce on the record to the parent that the Guardian was doing exactly what they were charged with doing and that, contrary to their position that they hated the report and thought it was full of hogwash that I thought it was a very solid and informative report. That said, I did encourage the CASA program in that case to consider appointing a second guardian because the Guardian ad litem, the original Guardian ad litem and the mother well, the mother, was so upset with the Guardian ad litem that there was no productive relationship left to be had, and I could tell because it is actually still an open case still, that it was, it's trending toward reunification and that I needed the Guardian to be, I needed the mother to pick up the phone when the Guardian called and she wasn't gonna do that anymore because she was so angry at the Guardian. So in that case, we didn't push anybody out, but the CASA program did appoint a second Guardian, essentially one guardian, to interface with Mom and the other, you know, the long standing guardian to continue to do their great investigative work and let me know from their perspective what was going on? I don't know if talking about the same case, but that was what happened.

**BT** **Brian**

It's.

**JE** **Judge Ellis**

From my perspective, anyway.



**BT Brian**

Yeah. No, this this case was actually region 3.

**JE Judge Ellis**

I don't know anything about that.

**BT Brian**

I was just highlighting the, I guess the question I have, I haven't heard of that region for it. So kudos there.

**JE Judge Ellis**

But.

**BT Brian**

Umm, other questions Shannon, did you have anything on that that's kind of where you are so?

**SM Shannon**

I don't actually have anything on that. I do have a separate question though, so if there's other questions that we want to tie in, we can.

**BT Brian**

Yeah. OK.

**SM Shannon**

I am wondering, are there other jurisdictions, I guess other states, that implement any practices that you wish Idaho or specifically Ada County would implement and along those lines, are there any statutory requirements that you think would be beneficial to have changed or modified added to better serve the system?

**JE Judge Ellis**

Yes, and I think that Idaho, well, I'll just go ahead and say it. I think Idaho should change our statutory scheme and that it should be the Department of Health and Welfare who makes the decision to remove kids into care. I don't think that it should

be law enforcement making the decision and the reason I say that is because our federal system and the way our whole statute is set up is that. The way we're supposed to do system improvement is through the concept of reasonable efforts, that the courts are empowered to say to the state, to the Department of Health and Welfare, you didn't do enough to prevent this kid coming into care. You know, it gives the court the authority to review and meaningfully tell the department, hey, you need to do XYZ to change your approach. And so, in most of the country, it's the department that has removal authority, and therefore it's a meaningful hearing at the shelter care hearing, for the Court to review it and make the finding of reasonable efforts or not. And I can say, you know, department, you worked with this family for, you know, three months and you did X Y or Z. Yeah, these children need to be in care because you've done what you need to do and those didn't work out. But the way it's structured in Idaho, some patrol officer with three months experience on the job rolls up on a situation, decides they're going to arrest Mom or Dad. They're under no obligation to make any reasonable efforts to prevent the removal. They just arrest Mom and Dad, and kid goes into foster care, and then we have to sort it all out through our process. And that's not the way it's supposed to work. We're supposed to be requiring our systems to really work with parents and families even when they're arrested. You know, we should be taking half a day before those kids come into care to call up and see if their grandmother was there, an aunt, is there a good family friend? I mean, there's a lot of creative ways that we should be going to keep kids from coming into care and preventing that trauma of removal, but because our law has the police were moving kids. I'm not blaming the police. They're just doing their job and they're doing what they're statutorily empowered to do, but we don't teach in POST that I'm aware of working with, you know, Gooding County Sheriff. Here's what you should be doing and thinking about and to make reasonable efforts to prevent or removal. You just teach them, was there probable cause to arrest this person? Yes or no? Oh, there's some kids. They need to come into foster care and that, I think, is our again, a magic wand, I would change it so that we were a department removal system and then there would be so much more accountability in removing kids, and there would be so much more opportunity to train frontline social workers and really do some creative work around keeping kids out of care and reducing that level of trauma. So yes, that's my, that's the policy change that I'd love to see that that's going to be a massive legislative endeavor.

**BT Brian**

Yes. Shannon, any follow-ups on that, any good? OK, Alicia.

**SM Shannon**

No, that answered it. Thank you so much. Thank you for your time.

**BT Brian**

Alicia, go ahead.

**AM Alisha**

Yeah. So my question was actually kind of around by the way, I'm a foster parent currently, and so I've, you know, lived this when it comes to kiddos that have special needs and the case plan. Is there anything recognized on your end, for instance, when you're making that case plan you might say the parents need to have parenting classes?

**JE Judge Ellis**

Sure.

**AM Alisha**

Uh, I've familiar with the situation and it was not in Ada County. It was a different county, but it was the parents were told to do parenting classes that special needs child, who was an escape artist and they were, you know, the training they were getting was for a child who was not neurodivergent but neurotypical. And it did zero help at all.

**JE Judge Ellis**

Sure.

**AM Alisha**

The end result has been umm, you know that family is just kind of cinched in and you know that child, those children are no longer like out in the community, they're kept pretty much at home now. And so the children, they didn't receive training on how to be able to handle these needs at all. And it was kind of an ongoing thing and that

was they were still the caseworker, you know, checked off the list. And you know that they did the parenting class, so we're done. But they still didn't know how to handle the child.

**AM Judge Ellis**

You highlight a tremendous deficit in our system, which is that we don't have a great deal of diversity and depth of parenting instruction to address exactly what you're talking about. We have at our fingertips right now in Ada County - and I'm resource rich compared to other counties - basically, there's two routes that we can send parents to. There's a 16-week course that's called protective parenting that really has to do more with recognizing safety concerns and keeping your kids safe from physical and sexual abuse. 0 applicability to what you're talking about. And then we have love and logic, which as you noted, may work really well for neurotypical kid, but is not gonna do much for a neuro divergent child. Umm, it guts me. We used to have a service in Ada County until a couple weeks months ago was run by family connections, which has folded up shop, that we had what was called Family Preservation Services. And I'm not saying that they were the cure all, be all because I don't think that they even really had much of a focus on the scenario that you're talking about, but at least it was in home. It was an in-home parenting class where they went to the family and they worked with them on kind of basic skills and gave them a fighting chance of identifying the kind of concerns you have, but that agency's folded up and we don't have a replacement yet in Ada County. So, we do get, with some regularity, kids with some profound special needs on the autism spectrum, developmental sort of, global developmental delays and these parents are tearing their hair out just trying to manage those children's behaviors day in and day out. And those kids behaviors contribute a lot to why they were moved into care because the parents get overwhelmed and sometimes act in ways that are irresponsible. So, all I guess I'm saying is you're right. We don't have a ready slate of services to help address that. What we do in my cases, which I think is a minor band aid, is that my case plans tend to be a little bit more tailored and that we will have an expectation that they're not only going to a parenting education if we can find that, but that they are working closely with the child service providers. And all the things that they're getting through the school and that there's an expectation that the parents participate in all of those services, so the social worker is tasked with sort of monitoring that the parents are participating in these services and working with the

professionals that do exist and try to educate them. Slowly but surely, so that they have a greater foundation when we leave them than they did when we met them but going way back to my question about the Magic wand, I said housing. I said tripling foster parents and I said doubling social workers. The other one I forgot to mention is doubling the amount of services available in our community. I'd love to be able to have parents go out and within a month get a psych eval. Now it's three or four months to get one. I've got wait lists, I mean of 18 months for a child to do a neuropsychological evaluation. And I can't seem to get any families into family counseling. I'm sure that there are some elusive unicorns out there, family counselors, but we can't seem to find them, at least Medicaid funded. So I mean, I've got families that that's the issue that mom and parents and kids need to be able to talk and we need them in counseling together. And we can't find counselors to do it. And that's enormously frustrating. And so similarly, parenting education for kids with special needs is another deficit.

**AM** **Alisha**

Sorry, just real quick, just kind of follow up on that. Is that something that, I guess what my concern is, I guess if a guardian ad litem says, you know, hey there we're seeing, there's still these issues because of the special needs. Is that something that is considered or is it because there's not those cares involved? And that's like, you know, we are doing our best. This is the best we can do, and let's see how it goes.

**JE** **Judge Ellis**

You packed a lot into that question. I would say that, yes, if the Guardian ad litem comes back with their reports and then court and forcefully say.

**AM** **Alisha**

Alright.

**JE** **Judge Ellis**

These parents we've watched, we've watched the visit. They're not learning anything. They're not changing anything. All of the safety concerns that existed when this child was removed are still present. That's pretty powerful. Umm. I have an active case that got that exact issue where I've got a guardian and a very, very high needs child. And you know, they're not seeing any meaningful change in the parents. And I'm not

entirely sure how that case is going to turn out. The gosh, I hate to go dark, but the other thing is that the state is not any better equipped to handle these children than these parents necessarily. We don't have a wealth of other highly trained foster homes that can, if we do they're already full. Uh, yeah, there's just not a ton of resources. And so we do encounter situations where being in foster care is actually worse than being home with suboptimal parents. And I've authorized decisions to have kids go home where everyone's like, this isn't great, but they are struggling so badly in foster care and we're not doing them any favors keeping them in care. I don't know. These are the cases that keep you up at night.

**BT** **Brian**

Well, Judge, we appreciate your time, we took you longer than we told you we would. I'm gonna reach out to Senator Lee about your idea about changing this removal power. Does it violate any of your uh, I guess professional interest to advocate for something like that? If I had her reach out to you just to kind of get your perspective on some of the issues you're seeing around that idea, I mean, does that violate anything that your responsibility you have as a judge to kind of remain independent of anything or?

**JE** **Judge Ellis**

No, it doesn't. We encourage the legislators to reach out and talk to us about anything that's on their mind. So, they're absolutely welcome and the Supreme Court encourages us to talk to legislators.

**BT** **Brian**

OK.

**BT** **Judge Ellis**

And I know Senator Lee, on a personal social level. So, she's welcome to call out and talk to me about anything she wants to.

**BT** **Brian**

OK. Well, we'll, uh, I really that would really resonate with me. I've got your other four wish lists or wish items noted down. Those ones are a little trickier, but I do think that we can at least get a recommendation out there and see.

**JE Judge Ellis**

Yeah.

**BT Brian**

I know there's some big stuff happening this year and I think there is some desire to see some significant change and so it might be a good year to get something in the works for that as well. So, we really appreciate your time.

**JE Judge Ellis**

Sounds great.

**BT Brian**

Thank you so much. This has been very helpful, and I can see everyone shaking their heads that this was very informative, so thank you for the work you do and uh, just good luck.

**JE Judge Ellis**

Well, thank you. I will say that I've been doing this work for 20 plus years. I'm very passionate about it. I love the work and so it's it has good days, and it has bad days, but I've certainly overall really loved it and I want to thank you all in return. I know that all of you are doing this out of the goodness of your heart, as volunteers. You're not getting paid to do this, so I do appreciate your passion. I do appreciate your care and concern about Idaho's kids and using your valuable time toward that end. So thank you all for doing what you do and I am delighted to come and talk to you. And I'm sorry if I took up your whole meeting, but I'll sign off now.

**BT Brian**

No, this was this was very well worth it. So thank you and have a great evening.

**JE Judge Ellis**

Alright, you bet. Thanks everybody.