

Preparing The Parents Of The Child Client
By
Katherine James
ACT of Communication®

Parent and Child.

Is there a bond or relationship that has a more complex set of primal instincts? Is there a bond or relationship that we value more as a culture? It seems that Mother Nature instills in us all the tools to assure the continuation of the species through the instincts she gives us when we come to the point in our lives when we parent. Long before we are parents we fiercely cherish a baby doll (mostly girls) or stand instinctively between the playground bully and our little brother (mostly boys). I think of the correlation that our society places on the bond of parent and child as “Father Culture”. Father Culture teaches us amongst other things when we are growing up that parents earn money to support families, that even if parents divorce that children are safe. I am going to refer to these two ultimate parents, Mother Nature and Father Culture, as I explore the subject of the parents of the child client as witnesses. After all, it is nature and nurture which dictate what parents “should” be and how parents “must” act in order for our species to survive. As we grow older and approach the time when we become parents, Mother Nature and Father Culture kick in high gear as they start to “take over” this major role we are about to take on: PARENT. And then we become parents, and we are well prepared for the rules associated with being a parent to take over a whole major part of who we are.

The Rules of Parenting.

What are The Rules of Parenting that constitute the reassurance of the survival of the species? Following is a list that I have found over the years both as a parent, the mother of parents, and as someone who works with parents as witnesses that Mother Nature and Father Culture make sure we all learn.

Protect
Defend
Love
Bond With Emotionally
Take Care Of Physically
Provide For Financially
Educate
Set On A Spiritual Pathway
Let Go Of

But...what happens when a child is hurt or killed by a doctor? Or a defective product? Or any number of ways we have all seen over the years?

I believe that these rules morph and change and deform and grow twisted and fearful and turn into huge, exaggerated deficits and defects – especially when it comes time for them to get ready for deposition and trial. The first job of the lawyer who is representing the child is to figure out which rule or rules have gone awry in this parent (or these parents). Only then can you try to minimize the effect this potentially monstrous hazard. Yes, monstrous. A parent with a deformed rule dominating his or her life can have monstrous consequences to a case and ultimately be hazardous to the future of his or her own child when assuming the role of witness.

In this next section, I am going to explore these rules and how to recognize the potential monstrous hazards they become in the parents of the children we represent.

Protect

This is where we set up our cave so that nothing bad can happen. I think of this one as “the great plan”. We put everything in place that we can think of so that disaster can’t happen. With the parents of our child clients, some of them believe that their perfect protection system failed. They tend to say, “I just don’t understand how this could have happened to my child/our family!” They are angry and fearful. They have a right to be angry because

of what happened to their child – but – they are not allowed to display that anger and fear in deposition and in the courtroom. It does you no good to tell them that it isn't their fault so that they shouldn't feel what they are feeling. You only make it worse that way. They have every right to feel that way. Now, what do we do with those feelings? We talk about them in their direct examinations. When asked in deposition "What has changed about your life?" They get to say, "I still don't understand. I worked so hard to protect my family – only to have this doctor, who I trusted, destroy what I thought was our perfect and safe little world." They get to talk about anger and fear. But when they testify, they aren't allowed to display it. This is what the aim is when you role play with them as you are getting ready for deposition and trial.

Defend

This is when an enemy comes to the cave and we leap between that enemy and our cubs – and we kill the enemy. When we grab our child as the child is about to step off the curb and into the path of a speeding car. With the parents of our child clients, I often find that the parents are in the middle of a huge fight with a giant enemy – the defendant in the case. The parents come out swinging and screaming and defending what is left of their injured child. Again, the screaming and fighting is perfectly understandable – but not allowed in testifying. The parent has to be willing to give over the job of warrior to the attorney. In role-playing, when the parent displays the defensive behavior, the attorney must ask, "Do you trust me?" A mantra of "This isn't my job – this is Pam's job" combined with a good inhalation and exhalation practiced in role-playing is a solution that often works. Again, you must practice this again and again in a role-playing situation until the witness can give over the defending of the case to you.

Love

To purely and simply love a child because it is our child – is there a greater feeling in the world? When a child is hurt or killed through the negligence of another, that pure love can be broken. Sometimes I think that some parents just can't see that child in the same way again – that the love got broken when the child got broken. And parents feel guilty that every time they look at a child in a wheelchair they see a child they love brokenly instead of the child that they loved with their whole heart when the child was whole. Sometimes these parents can seem cold and guarded. They show no emotion. I think that they are stunned. When role-playing, when they show that behavior, I stop and say, "I am looking at you and I can see that when this happened to your baby it is like you have hit the ground running and haven't been able to look at him the same way since." Almost always the floodgates open and I hear the story of the hopes and dreams and the perfection that was the child before the child was injured. Again, this is testimony that will come out in deposition with the "What has changed" question. In trial, they can talk about how they still love their child but every time they look at that child they see what was...and what can now never be.

Bond With Emotionally

In addition to love, there are all kinds of emotions that we feel empathetically with our children. There are child psychologists who say that when a parent and baby look at one another, and the parent imitates what the baby is doing, that is one of the most important experiences for a baby. To get themselves and their facial expressions reflected back by the parent. It is also, I believe, vital for the parent's bonding experience with the baby. But what if the baby has cerebral palsy, for example? Some parents don't know if they are reflecting "real" baby behavior or "sick" baby behavior back to their baby. So they stop reflecting. They stop getting absorbed in the baby empathetically. Some of them start getting absorbed in themselves instead. Maybe they were already a little narcissistic to begin with – but by the time you meet them they are saying things like, "This is the worst thing that ever happened to me!" You ask about the baby, they talk about

themselves. During role-playing, I give these folks my Eleanor Roosevelt rule which goes like this...one time, when Eleanor Roosevelt was being interviewed for The Saturday Evening Post she didn't use the words "I" "me" "my" or "mine" for three straight hours. This parent's job is to do the same thing when testifying.

Take Care Of Physically

Our job as parents is to take care of that little body until it is fully grown. This is a major instinct – but it is also a big cultural rule. But...what happens when that little body we are supposed to take care of becomes hurt or broken? Some parents go into a mode where they believe that they should physically be able to take care of that baby forever. For example, this is where you get a dad who wants to change your life care planner's recommendations because he doesn't want or need all that stuff. I had a young dad say to me once, "I don't need a ramp built on the front of the house. I can just pick him up and carry him inside." These folks need pictures, videos, encounters with parents and kids who have been hurt in the same way that their child has been hurt...but now the kids are at least 18 years old. You need to bring them all the way through to the other side of "I can take care of him physically by myself forever" to "He is always going to need help to take care of himself physically." Again – just your saying that help is needed isn't going to make it real for this parent. Those are just words. Then, once the concept is accepted, then and only then can you make it a part of testimony and role-playing to get ready for that testimony. Only then will someone say, "My son is going to need a ramp on the outside of any home he lives in. He is going to need wide doors. He is going to need bigger and bigger wheelchairs. Now I can pick him up and carry him into the house. Right now he weighs 35 pounds. But I can't do that when he's older. And I can't do it after I am gone."

Provide For Financially

This is closely related to take care of physically, but it is slightly different from that. Again, I find this mostly with men. Daddies

are supposed to “provide” for their children. A man who has worked hard, makes a good middle class living, and realizes intellectually that he can’t possibly pay for all the extras that his hurt or injured child might need often has a hurdle to leap over. When asked, “Do you need financial help?” They immediately say, “I don’t need help” or “Not really.” They understand intellectually that a law suit is about getting money to help their child, but they think that admitting it makes them sound like a failure as a bread winner. I sometimes have this person say, “Please help me” in role-playing before each answer just to overcome this problem. They won’t say it before each answer in trial, of course – but they need to think it. It is very humbling – but – necessary. I often say at some point, “I really hate it that the defense is making you feel like less than a man because they have put an impossible financial burden on your shoulders.”

Educate

Educating our children is a major cultural rule of parenting. We instinctively look for sign posts that they are learning as well – how often when you have parents of a brain damaged child do they talk about learning delays? Or how this baby doesn’t do what their older child did at the same age? However, there is one group of parents for whom this issue becomes warped. That is the parents who are not what we call “smart”. Their IQ isn’t so high. They didn’t go to college. Some of them dropped out of high school. Most of us take pride in how “smart” our kids are. How they learn faster than other kids. But I find that this subset of parents care even more. They will say of their “normal” children: “She is smarter than that stupid teacher in her class. She knew her ABC’s better than the teacher did.” Sometimes they want so badly for their children to be smart, that they will exaggerate how well their hurt or injured child is doing. They do this for the Defense Medical Examiner...or even for your expert. “She is doing really great – I know that she is recognizing shapes and colors.” They minimize the damages because they want their kid to be “smarter”. Or, conversely, they want to make a greater claim for lost wages than your damages expert has in the report. “Why, just

because I am an auto mechanic doesn't mean anything! My kid would have been a rocket scientist if this hadn't happened!"

For the former, I have sometimes said, "Every time you think you are helping your child by telling her that she can do it when she can't, you are taking away her opportunity for the life she deserves – the best life she can have. You are taking away the money that the other side owes her. Stop it." For the latter I say, "You can say on the stand that your child will never be able to be all that he could have been. You can say, 'I am happy and proud to be an auto mechanic. My son will never feel happy and proud because he did an honest day's wages for an honest day's work.'" "

Set On A Spiritual Pathway

Most people not only have but need a spiritual dimension to their lives. Many parents have lost their faith because of what has happened to them. God has failed them. When they go to church, they feel that parishioners are saying, "What happened to your child was God's will." Conversely, some will insist, "God doesn't give you more than you can handle." For the former, I say, "I want you to testify as to how this has made you lose your faith." Then we role-play that question and answer. For the latter I say, "I agree. I think this may very well be God's will. I think that God wants this manufacturer to learn that they can never, ever do this again to another little boy."

Let Go Of

Every day from the moment they are born until they are living on their own, we are letting them go a little bit more. But that natural letting go process is severely impaired when a child is hurt or injured. We have parents who are going to have a caretaking relationship, in some form or another, with their child until the child dies or the parent dies. This parent doesn't want to have a caregiver in the life care plan, for example. The parent will take care of the child "forever". This parent needs to gently be walked through their child having the right to grow up to be as independent as he or she can be. It is especially hard for parents

of a baby to see that far into the future. Nature doesn't allow us to do that – we are still at the beck and call of the instinct that says, “Hang on!”. I find that starting with the most basic functions works best. “When John is 15 years old, do you think he has the right to have someone who isn't his mother help him take a shower? Change his diaper? Get him dressed? Let's imagine that John has a big strong guy do all those things for him. Can you picture that?” Most parents who are fighting letting go “get it”. Dignity, independence, even the possibility of friendship – letting their child “go” into a future that is best for that child.

Conclusion

As with all witnesses, one size fits all doesn't work. Find out what this particular parent's instinct grown out of proportion is. Then address it, guide it, and use it to help you win your case.