

Benefits of Early Legal Advocacy

The background features a white upper section and a lower section with abstract, wavy shapes in shades of orange and red. The text is centered in the white area.

ABA Family Integrity Policy 118

Adopted August 2019



- Recognizes children and parents have legal rights to family integrity and family unity;
- Urges legal professionals, courts, and relevant state agencies to mitigate the trauma and long-term harm that can result from separation from parents and other primary caregivers;
- Supports the use of prevention services, including legal services, to ensure children's safety without the need for removal from a parent or caregiver;

NCJFCJ



Supporting the Family First Prevention Services Act (September 8, 2016)

“We applaud those Senators and Representatives who provided bipartisan leadership in Congress for introducing legislation to reform federal child welfare funding to be invested in preventative services and programs for vulnerable children and families.”



Resolution in support of implementing a family-centered framework in child abuse and neglect cases

“The NCJFCJ calls for judges to encourage and support the development of family centered, culturally responsive processes to ensure family engagement in a way that helps families craft solutions to the issues that brought them before court, except when the child’s safety or well-being is at risk.”

ABA Resolution 110 – Child Welfare Financing Reform

Adopted February 2010

- Urged Congress, state, territorial, tribal, and local governments to enact child welfare financing laws and/or implement policies to reform the child welfare financing structure... to encourage keeping ...children safely with their birth families by increasing the amount and flexibility of funding available for services. Including those services related to:
 - child abuse and neglect prevention;
 - family preservation and support;
- Highlighted that services should include direct access or connection to programs to address: affordable housing, transportation, anti-poverty supports, substance abuse/mental health treatment, domestic violence, parenting instruction and peer parent support programs, and quality parent representation programs.

NCJFCJ – Child Welfare Finance Reform Policy Statement (March 2011)

“NCJFCJ makes the following recommendations from the judicial perspective... Title IV-E funds must be made available to support court-based front-loading. Many courts have instituted programs such as pre-petition mediation and prehearing conferences to ensure children are not placed needlessly in foster care or languish there too long once they are placed related to child welfare finance reform...”

*“Every system is perfectly
designed to get the
results it gets.”*

-W. Edwards Deming

Let's consider our results . . .



50% of black children will be subjected to a CPS investigation by age 18.



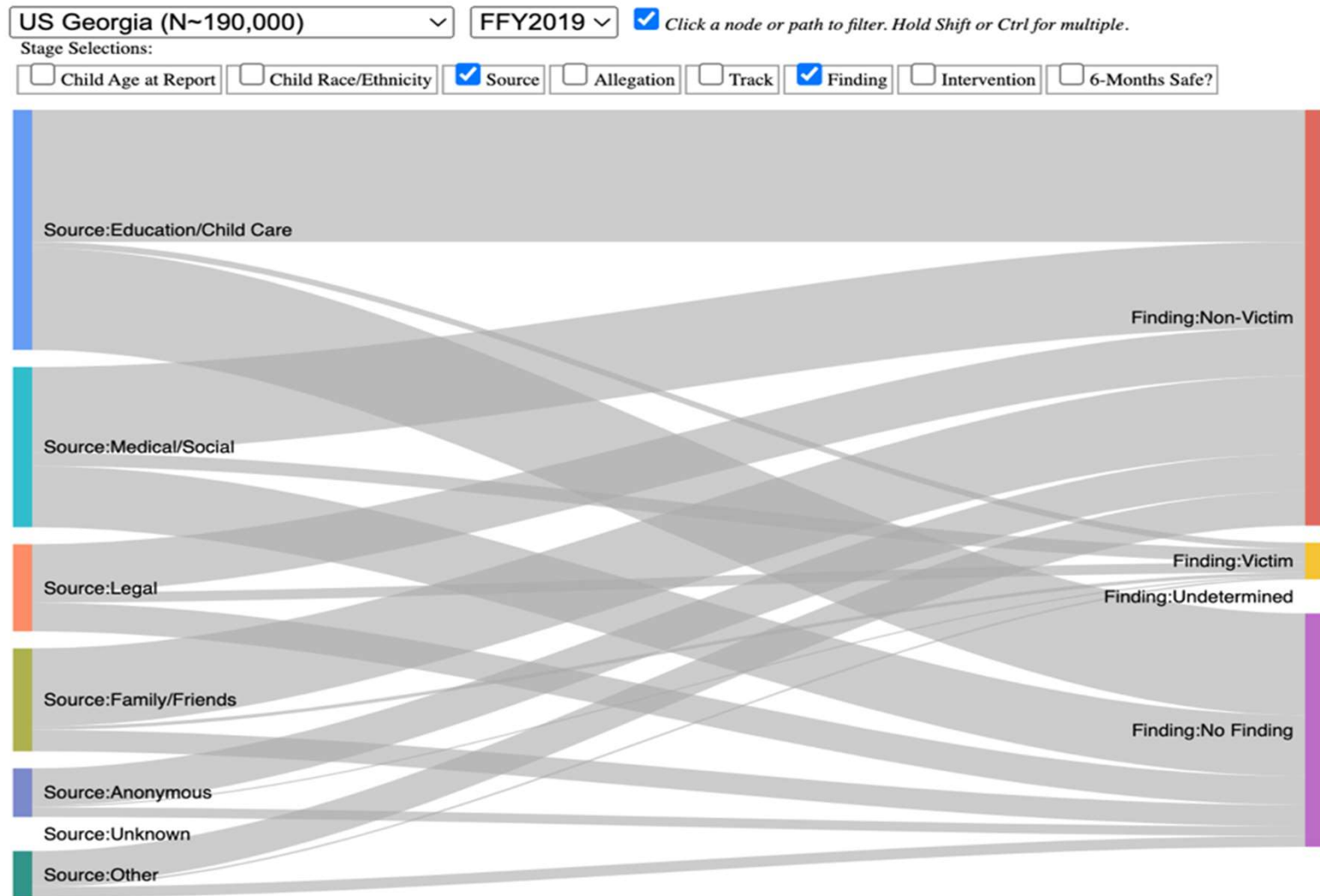
1/3 of all children will be subjected to a CPS investigation by age 18.



83% of all CPS investigations are unsubstantiated.

Palmer L, Font S, Rebbe R, Putnam-Hornstein E. Lifetime rates and types of subsequent child protection system contact following a first report of neglect: An age-stratified analysis. PLoS One. 2023 Apr 12;18(4):e0283534. doi: 10.1371/journal.pone.0283534. PMID: 37043442; PMCID: PMC10096237.

Example: Georgia 2019



US Georgia (N~190,000) ▾

FFY2019 ▾

Click a node or path to filter. Hold Shift or Ctrl for multiple.

Stage Selections:

Child Age at Report Child Race/Ethnicity Source Allegation Track Finding Intervention 6-Months Safe?



A very small portion of these calls resulted in a "victim" finding.

US Georgia (N~190,000) ▾

FFY2019 ▾

Click a node or path to filter. Hold Shift or Ctrl for multiple.

Stage Selections:

Child Age at Report

Child Race/Ethnicity

Source

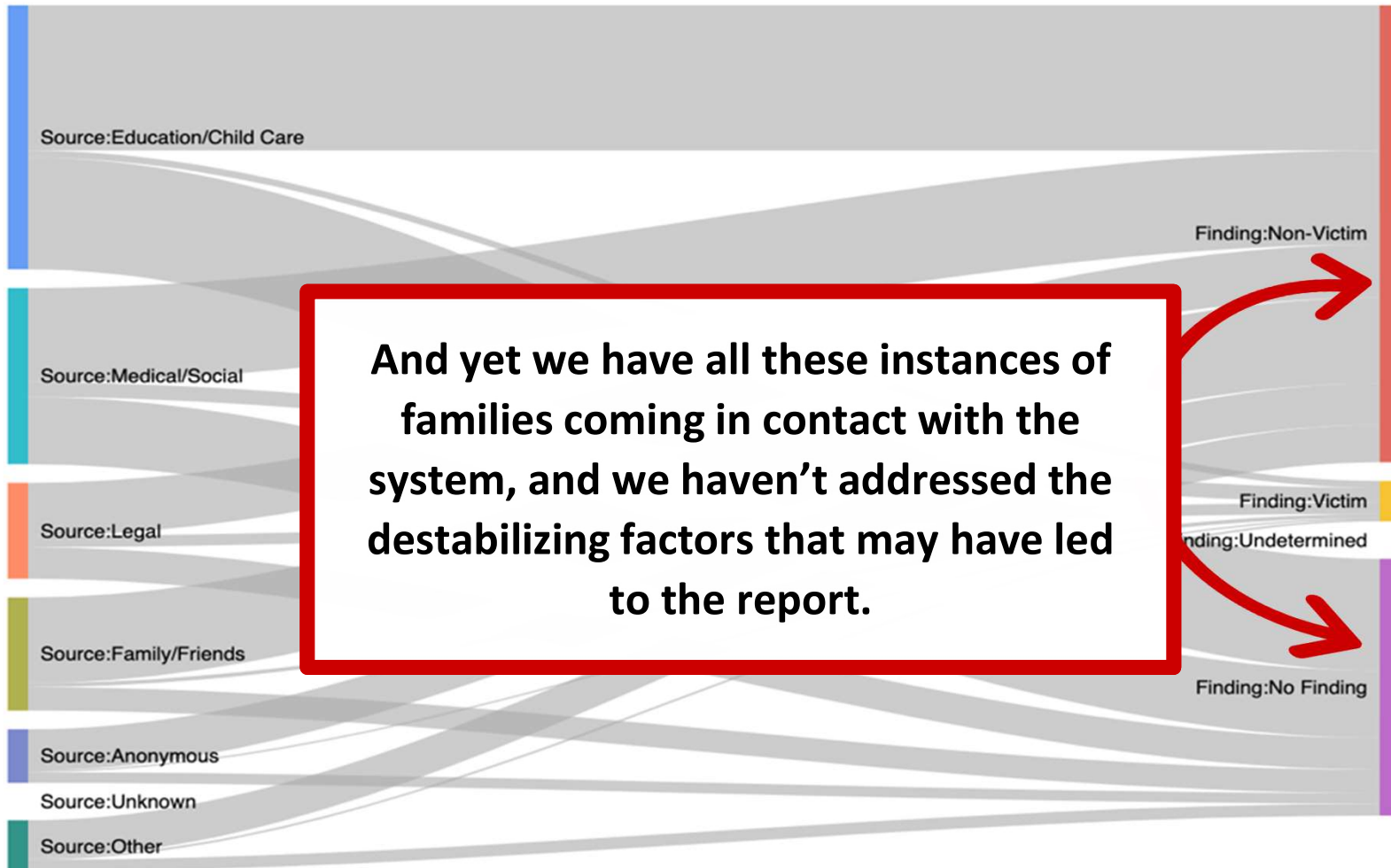
Allegation

Track

Finding

Intervention

6-Months Safe?



And yet we have all these instances of families coming in contact with the system, and we haven't addressed the destabilizing factors that may have led to the report.

Social Determinants of Health

These destabilizing factors that are not often otherwise addressed prior to removal are the work of preventive legal advocacy.





Civil Legal Issue: Family wrongfully evicted

Mom and 3 children are wrongfully evicted from their home and the landlord keeps the deposit.

PLA

PLA Team could have stepped in and worked with mom to prevent eviction.



Lack of Stable Housing Leads to Relapse

Mom loses job and is unable to obtain housing. Moves to a shelter where stress leads to relapse.

PLA

PLA team could have pursued the deposit, helped with public housing application, and referred mom for treatment.



CPS Report is Substantiated for Neglect

CPS report is made and investigator substantiates neglect stemming from inadequate housing & substance abuse.

PP

PP team could have counseled mom through the investigation to prevent substantiation and removal



Removal Order Signed & Children in Care

Agency seeks removal. Following removal, mom appears for the preliminary hrg., and for the first time mom is assigned legal counsel.

PP

Pre Pet Attny could have prepared a defense prior to PPH & secured a quick return of custody.

The greatest benefit of preventive legal advocacy is its capacity to stabilize families and prevent removals.

Upstream Referrals

Families are referred for services before there is a removal

Effective Community Partnerships

Rapid response & warm handoffs for any needed services



Multidisciplinary Legal Teams

Attorney
Social Worker
Parent Partner (LE)

Holistic Representation
Teams examine the full scope of family need with a prevention focus

CPS Investigations, homelessness, addiction, consumer abuse: due to poverty, our clients rarely experience traumatic challenges one at a time—they experience many, all at once or in rapid succession.

Housing Need

Mom needs help securing safe, stable housing for her family.

Counseling

Mom may want counseling for herself and her children.



SA Treatment

Mom may be asking for help getting into substance abuse treatment.

CPS Investigation

Mom needs counsel to advise her thru the course of the CPS investigation.

The goal is to eliminate the need for removal and juvenile court involvement:

Evaluate

multidisciplinary team evaluates the family's situation

Identify

team identifies legal and social needs directly related to keeping the family together

Address

team provides proactive, short term legal representation to address those needs

Many PLA programs focus their efforts on:

Relationships

- Meeting clients where they are physically and emotionally
- Remaining transparent about confidentiality
- Centering client perspective and goals
- Problem solving with parents and service providers on any issues that may arise

Community Building

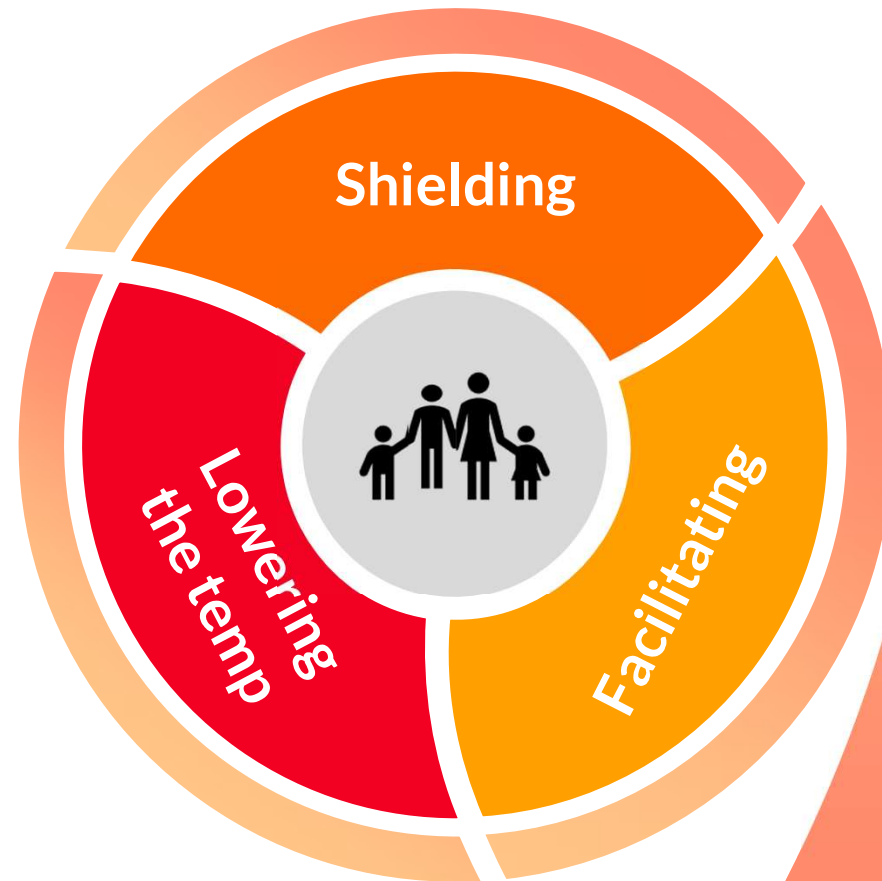
- Assisting clients in building or reconnecting with their support network
- Incorporating family when safe to do so, or helping clients to draw boundaries
- Staying up to date on community resources

Safety Planning

- Working with parents on in-home safety plans that meet their needs
- Presenting detailed safety plans that addresses safety concerns and remove the agency's desire for court involvement

Much of the work centers on bringing people together

- **Shielding traumatized parents** from the agency and being the person to whom parents can vent and confide
- **Calling and facilitating meetings** – getting all the necessary people together, including natural supports
- **“Lowering the temperature”** – parents are often less anxious with an advocate in the room, allowing for more productive conversations



Early legal advocacy in action: the proof is in the pudding

- Since 2019, FIRST Clinic in Washington has tracked more than 300 of their cases and 84% have resulted in no petition filing.
- Family Defense Team at Bronx Defenders represents parents during the pendency of CPS investigations, and they report petitions have been avoided in 68% of those cases
- Youth Rights & Justice in Oregon now has a Family Defense Project and they've seen a 40% reduction in the rate of removals even in those Pre-Petition cases that do actually make it to a shelter care hearing.
- New preliminary reports show that the Parent Advocacy Program, a new PLA pilot launched in McLennan County, TX in the winter of 2022, successfully avoided petition filing in all 30 of its cases.

In Summary - The Benefits of Early Legal Advocacy:

