

# Preventive Legal Advocacy:

Expanding the Availability of Family-Focused Civil Legal Advocacy to Prevent Unnecessary Child Welfare Involvement

**PLA  
BASICS**

**CURRENT  
TRENDS**

**PLA IN  
ACTION**

**PANEL  
DISCUSSION**

Hayley Lichterman  
John Whitelaw

**LOOKING  
AHEAD**

**EMORY  
LAW**

Emilie T. Cook, Esq.  
Preventive Legal Advocacy Fellow  
Barton Child Law & Policy Center



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## Preventive Legal Advocacy:

supporting families while promoting the social determinants of health by addressing upstream legal issues that, if left unresolved, can lead to unnecessary reports to child protection agencies and further entanglement in the child welfare system. <sup>1</sup>

“Preventing child welfare removals means deciding <sup>2</sup> that children deserve to have their parents made whole and not whole new parents; it means asserting that poverty is never equivalent to abuse or neglect and that parents deserve support in their efforts to keep their families together.”

- Increasing Pre-Petition Legal Advocacy to Keep Families Together

conceptualizing preventive legal advocacy

continuum of high quality legal advocacy

social determinants of health

comprehensive advocacy

1. Preventive Legal Advocacy. Casey Family Programs. (2021, October 19). Retrieved October 26, 2022, from <https://www.casey.org/preventive-legal-advocacy/>

2. Giordano, G., & Rajaraman, J. (2020, December 15). Increasing Pre-Petition Legal Advocacy to Keep Families Together. Americanbar.org. Retrieved October 26, 2022, from <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2020/winter2021-increasing-pre-petition-legal-advocacy-to-keep-families-together/>

Trauma

## Dependency Case

### Children's Bureau

- "Access to an attorney or multidisciplinary legal team that provides civil legal advocacy can empower, support, and restore agency to parents, caregivers, young people, and individuals to help them maintain well-being, preserve family integrity, and promote economic mobility. Civil legal advocacy can also be preventive, especially in the child welfare context, serving as a tool to stop unnecessary family separation." 3

Family dynamics

Identity

Community

Other legal issues

Inequity

Economic needs

Emotional/mental needs

Access to resources & services

3. Children's Bureau. (2021, January 12) . *Information Memorandum: Civil Legal Advocacy to Promote Child and Family Well-being, Address the Social Determinants of Health, and Enhance Community Resilience*. ACYF-CB-IM-21-02; Pisani-Jacques, K. & Sankaran, V. (2021, August 1). *Pre-Petition Representation : A Webinar for Ohio Child Welfare Professionals* [PowerPoint Slides]. National Association of Counsel for Children.

### Trauma from the Act of Removal

- No warning
- Replay event

### Emotional and Psychological Harms

- Separation and Attachment Disorders
- Anxiety, distress, PTSD

### Family Separation → Grief and Confusion

- Ambiguous loss
- Role ambiguity

### Harms of Foster Care

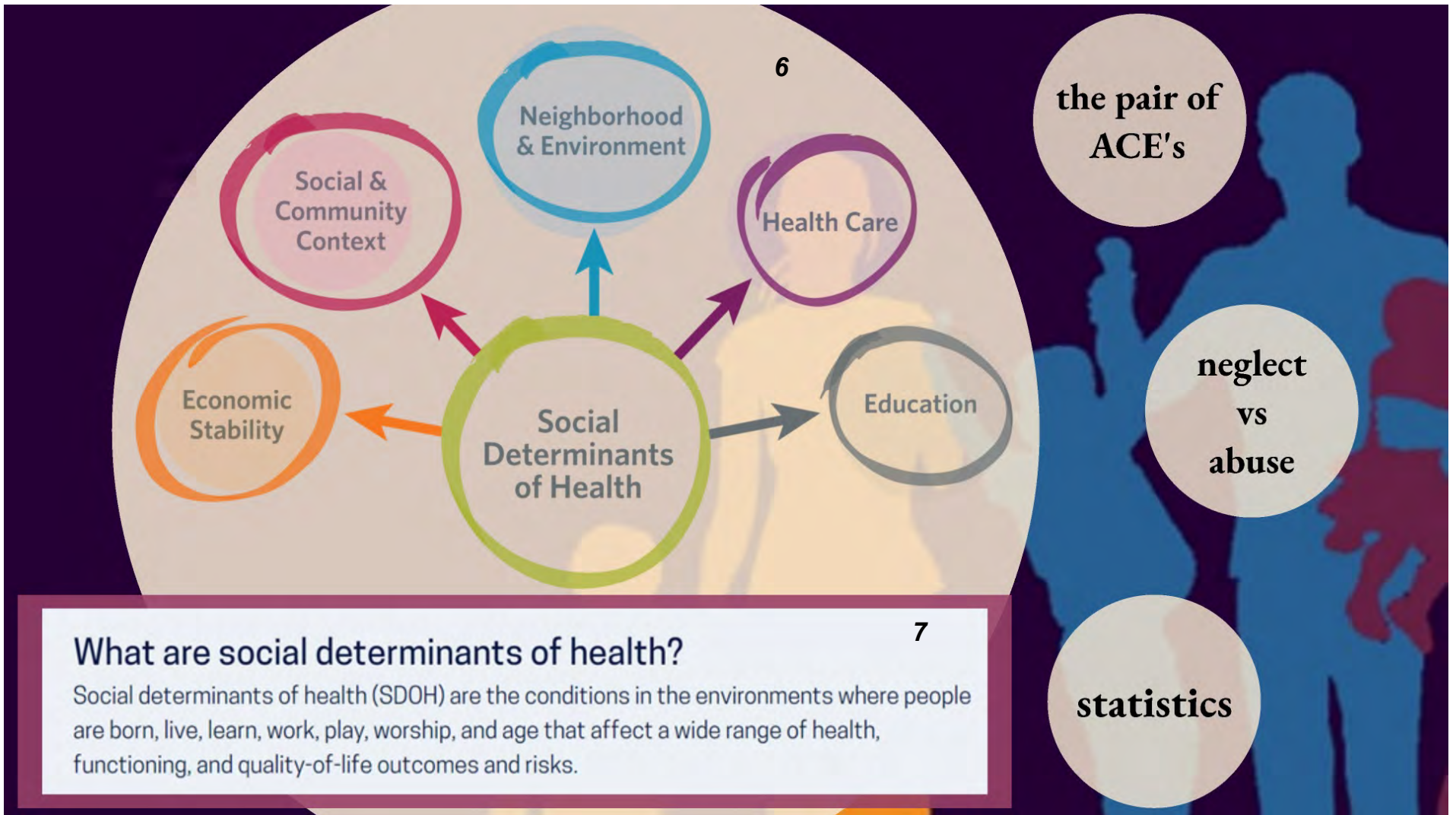
- Risks of abuse/neglect
- Physical/mental/behavioral health concerns
- Long-term outcomes

*Shanta Trivedi, The Harm of Child Removal, 43 N.Y.U. REVIEW OF LAW & SOCIAL CHANGE (2019)*

4. Pisani-Jacques, K. & Sankaran, V. (2021, August 1). *Pre-Petition Representation : A Webinar for Ohio Child Welfare Professionals* [PowerPoint Slides]. National Association of Counsel for Children.



5. Casey Family Programs. 2021, August 19. *Preventive Legal Advocacy*. <https://www.casey.org/preventive-legal-advocacy-topic-page/>



6. Carter, M. (2021). *NACC - Legal Services Prevention* [PowerPoint Presentation].

7. *Social Determinants of Health - Healthy People 2030*. (2022). Retrieved October 26, 2022, from <https://health.gov/healthypeople/priority-areas/social-determinants-health>

	NATIONAL AVERAGE	AFRICAN AMERICAN	AMERICAN INDIAN	ASIAN AND PACIFIC ISLANDER	LATINO	WHITE (NON-HISPANIC)	TWO OR MORE RACES
<b>ECONOMIC WELL-BEING</b>							
<b>Children in poverty</b> 2016–20	17%	32%	31%	11%	25%	11%	18%
<b>Children whose parents lack secure employment</b> 2016–20	27%	41%	44%	21%	31%	21%	30%
<b>Children living in households with a high housing cost burden</b> 2016–20	30%	44%	29%	30%	40%	22%	33%
<b>Teens not in school and not working</b> 2016–20	7%	10%	12%	3%	8%	6%	7%

One in four Black children in the US lived with a monthly income below the monthly poverty line in January 2022, an increase of more than 600,000 Black children from the month prior (a 30 percent rise). Latino children experienced the largest percentage point increase, seeing a 7.1 percentage point (43 percent) increase in child poverty from December 2021 to January 2022; this increase amounted to over 1.3 million additional Latino children in poverty in January 2022 compared to December 2021. Asian children experienced a 27 percent rise in their child poverty rate.

8. Annie E. Casey Foundation. (2022, August 8). *2022 Kids Count Data Book: State Trends in Child Well-being*. <https://www.aecf.org/resources/2022-kids-count-data-book>. 16.

9. Parolin, Z., Collyer, S., & Curran, M. (2022). *Absence of Monthly Child Tax Credit Leads to 3.7 Million More Children in Poverty in January 2022*. *Poverty and Social Policy Brief*, 6(2), 1–5.



	NATIONAL AVERAGE	AFRICAN AMERICAN	AMERICAN INDIAN	ASIAN AND PACIFIC ISLANDER	LATINO	WHITE (NON-HISPANIC)	TWO OR MORE RACES
<b>FAMILY AND COMMUNITY</b>							
<b>Children in single-parent families</b> 2016-20	34%	64%	52%	16%	41%	24%	39%
<b>Children in families where the household head lacks a high school diploma</b> 2016-20	12%	11%	17%	10%	29%	5%	11%
<b>Children living in high-poverty areas</b> 2016-20	9%	22%	24%	4%	13%	3%	8%
<b>Teen births per 1,000</b> 2020	15	25	19	4	23	10	15

10. Annie E. Casey Foundation. (2022, August 8). *2022 Kids Count Data Book: State Trends in Child Well-being*. <https://www.aecf.org/resources/2022-kids-count-data-book>. 16.

	NATIONAL AVERAGE	AFRICAN AMERICAN	AMERICAN INDIAN	ASIAN AND PACIFIC ISLANDER	LATINO	WHITE (NON- HISPANIC)	TWO OR MORE RACES
<b>HEALTH</b>							
<b>Low birth-weight babies</b> 2020	8.2%	13.8%	7.9%	8.5%	7.4%	6.8%	8.9%
<b>Children without health insurance</b> 2016-20	5%	4%	13%	4%	8%	4%	5%
<b>Child and teen deaths per 100,000</b> 2020	28	49	31	14	24	25	16
<b>Children and teens (ages 10 to 17) who are overweight or obese</b> 2019-20 <sup>†</sup>	32%	42%*	N.A.	20%*	40%	27%	N.A.

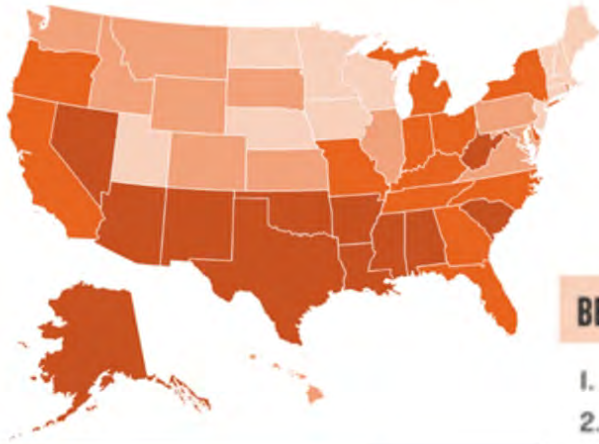
11. Annie E. Casey Foundation. (2022, August 8). *2022 Kids Count Data Book: State Trends in Child Well-being*. <https://www.aecf.org/resources/2022-kids-count-data-book>. 16.

12.

	NATIONAL AVERAGE	AFRICAN AMERICAN	AMERICAN INDIAN	ASIAN AND PACIFIC ISLANDER	LATINO	WHITE (NON-HISPANIC)	TWO OR MORE RACES
<b>EDUCATION</b>							
<b>Young children (ages 3 and 4) not in school</b> 2016-20	53%	50%	55%	48%	59%	51%	54%
<b>Fourth-graders not proficient in reading</b> 2019	66%	82%*	80%*	45%*	77%	56%	60%*
<b>Eighth-graders not proficient in math</b> 2019	67%	87%*	85%*	39%*	81%	57%	64%*
<b>High school students not graduating on time</b> 2018-19	14%	20%*	26%*	7%*	18%	11%	N.A.

12. Annie E. Casey Foundation. (2022, August 8). *2022 Kids Count Data Book: State Trends in Child Well-being*. <https://www.aecf.org/resources/2022-kids-count-data-book>. 16.

## OVERALL CHILD WELL-BEING



13.

## RANKINGS AND KEY

### BEST

1. Massachusetts
2. New Hampshire
3. Minnesota
4. Utah
5. Vermont
6. New Jersey
7. Connecticut
8. Nebraska
9. Iowa
10. Wisconsin
11. North Dakota
12. Maine

### BETTER

13. Virginia
14. Wyoming
15. Washington
16. Colorado
17. Kansas
18. Idaho
19. Maryland
20. Montana
21. Pennsylvania
22. Hawaii
23. Illinois
24. South Dakota
25. Rhode Island

### WORSE

26. Oregon
27. Missouri
28. Indiana
29. New York
30. Delaware
31. Ohio
32. Michigan
33. California
34. North Carolina
35. Florida
36. Tennessee
37. Kentucky
38. Georgia

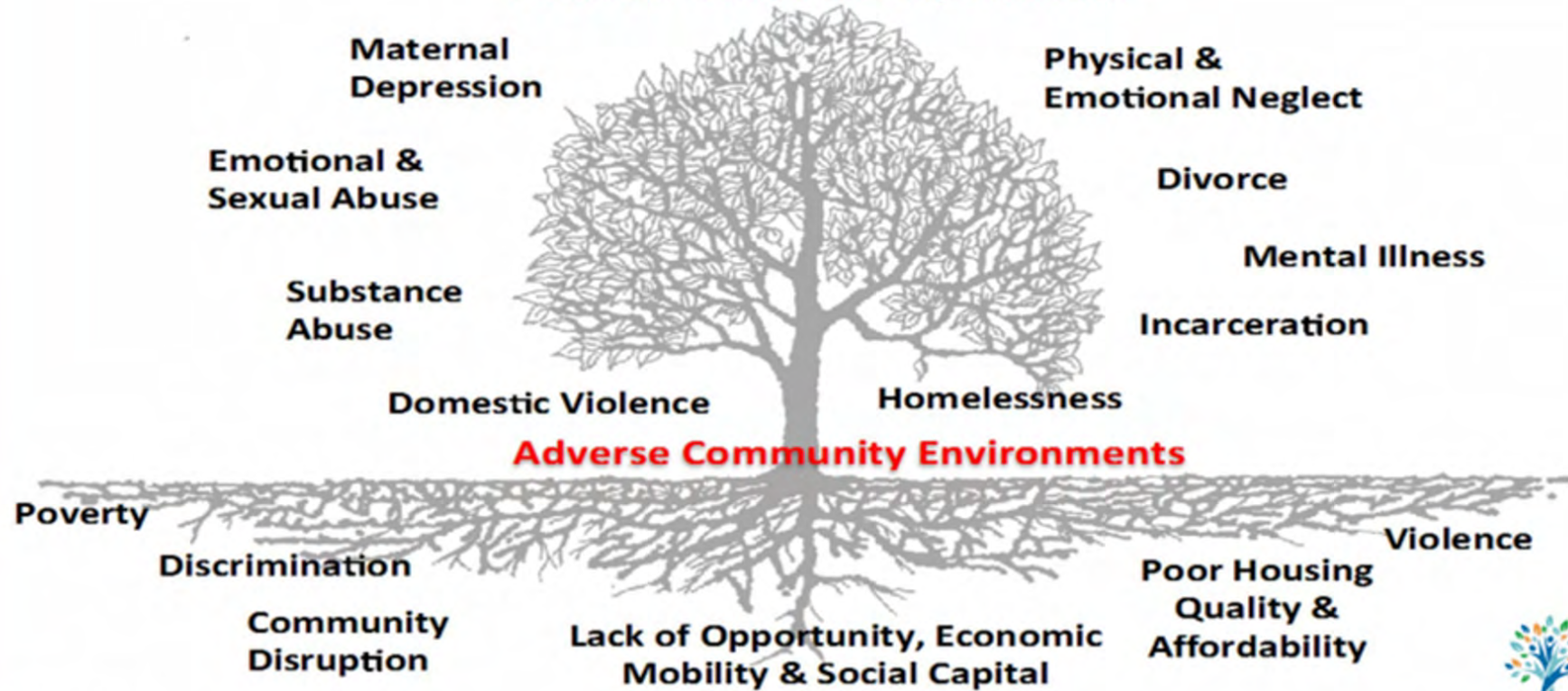
### WORST

39. South Carolina
40. Oklahoma
41. Alaska
42. West Virginia
43. Arkansas
44. Arizona
45. Texas
46. Alabama
47. Nevada
48. Mississippi
49. Louisiana
50. New Mexico

13. Annie E. Casey Foundation. (2022, August 8). *2022 Kids Count Data Book: State Trends in Child Well-being* . <https://www.aecf.org/resources/2022-kids-count-data-book>. 19.

The Pair of ACEs

**Adverse Childhood Experiences**



© Ellis 2020



14. Ellis, W. Dietz, W. (2017) *A New Framework for Addressing Adverse Childhood and Community Experiences: The Building Resilience (BCR) Model*. *Academic Pediatrics*. 17 (2017) pp. 586-593. DOI Information 10.1016/j.acap.2016.12.0

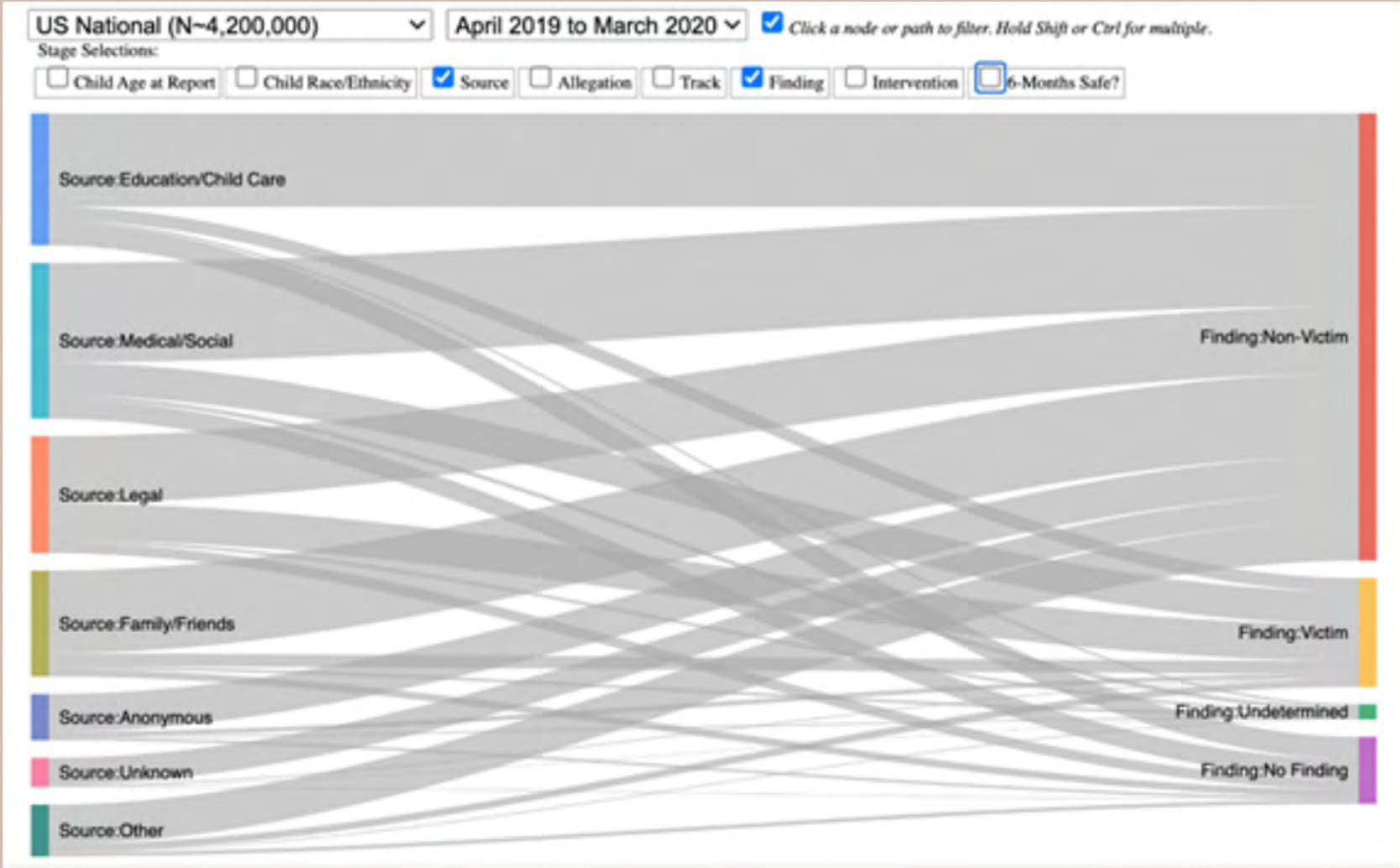
I have not seen any examples of families where children need to be removed for poverty-related issues. We need to move upstream and be a source of support to strengthen the family. Poverty-related issues are not dangerous or risk-inducing, and are not a reason to remove a child from their parents.

— JEY RAJARAMAN,  
CHIEF COUNSEL, FAMILY REPRESENTATION PROJECT, LEGAL SERVICES OF NEW JERSEY

Child maltreatment reporting practices may constitute another mechanism through which poverty shapes child welfare involvement. For example, among welfare recipients, welfare sanctions or employment changes predict child welfare investigation, but not additional child welfare involvement following the investigation, suggesting that economic factors may shape the child welfare report more so than the underlying behavior (Nam, Meezan, & Danziger, 2006; Slack et al., 2007). Slack et al. (2011) find that economic factors are stronger predictors of officially reported neglect, compared with parental reports of neglectful behavior.

15. Casey Family Programs (2020), *How Can Pre-Petition Legal Representation Help Strengthen Families and Keep Them Together?*, available at <https://www.casey.org/preventive-legal-support/>

16. Fong, K. (2017). *Child Welfare Involvement and Contexts of Poverty: The Role of Parental Adversities, Social Networks, and Social Services*. *Children and Youth Services Review*. 72. 5-13. 6.



17. Carter, M. (2021). *NACC - Legal Services Prevention* [PowerPoint Presentation]

## Structural inequities drive CPS involvement

- Income inequality
- Housing instability
- Food insecurity
- Unemployment and underemployment
- Incarceration
- Access to affordable, quality health care
- Educational opportunity
- Access to community-based resources

18. Carter, M. (2021) *"Upstream" Legal Advocacy to Promote Family Integrity* [PowerPoint Slides].



1 out of 3 children  
living in  
neighborhoods  
with a poverty rate  
greater than 20%  
will experience a  
CPS investigation  
(Fong, 2019)

Over 75% of reports to CPS are for allegations of neglect

"Reporting professionals who encountered families facing adversities such as poverty, domestic violence and substance abuse framed parents not as unequivocally dangerous, but as needing additional interventions to care for their children."  
(Fong 2020)

"I felt like this was the time to get some support in for the family. I figured CPS can provide that for them or whatever it is that they're lacking or need support in." (Fong 2020)

19. Carter, M. (2021) *"Upstream" Legal Advocacy to Promote Family Integrity* [PowerPoint Slides].

20

Of the approximately 250,000 children that entered care in FY 2019:

- 64% entered in part due to neglect (includes issues related to poverty, educational neglect, inadequate housing, failure to provide adequate nutrition, failure to safeguard mental health due to domestic violence)
- 10% entered care inadequate housing
- 8% entered in part due to child's behavioral problems
- 2% entered in part due to a child's disability

21

As of Sept. 30th  
FY '19 there were  
423,997 children  
in foster care

In Ohio, children of color are overrepresented in foster care, making up 32% of kids in custody when they are only 14% of Ohio's child population.

22

Compared to white youth, Black youth are:

- 2.2 times more likely to be referred to children services
- 2.8 times more likely to have a report screened in for investigation
- 3 times more likely to enter out-of-home care.

Compared to white youth, Multi-Racial youth are:

- 1.8 times more likely to be referred to children services
- 2 times more likely to have a report screened in for investigation
- 2.7 times more likely to enter out-of-home care.

(Source: Ohio ROM Reports, Ohio Department of Job and Family Services, Decision Point Report, January 2020)

23

Families living below the poverty line are over 40 times more likely to enter the child welfare system than median income families and the greatest predictor of maltreatment & child welfare entry is income.

20. Children's Bureau , (2020, June 23). *The AFCARS Report: Preliminary 2019 Estimates as of June 23, 2020*. N. 27 <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport27.pdf>

21. Id.

22. Pisani-Jacques, K. & Sankaran, V. (2021, August 1). *Pre-Petition Representation : A Webinar for Ohio Child Welfare Professionals [PowerPoint Slides]*. National Association of Counsel for Children.

23. Children's Bureau , (2020, June 23). *The AFCARS Report*.

# Comprehensive Advocacy

multi-  
disciplinary  
teams

## I. The Benefits of Civil Legal Advocacy to Child, Family, and Individual Well-being 24

Civil legal advocacy entails an array of supports, including but not limited to, legal representation by an attorney to enforce procedural or substantive rights. In addition to direct representation by an attorney, civil legal advocacy can simply be an opportunity to speak with a legal professional or legal team member to receive information and improve one's understanding of rights, eligibility for services, available supports, or the benefits of participating in a program or service. It can be assistance in completing an application for a benefit or service or advice from a peer with lived-expertise on what to expect from a program, how to access it, or other important considerations to keep in mind. Civil legal advocacy may also entail challenging and working to dismantle unjust community conditions that might contribute to a family's instability.

upstream  
legal  
issues

24. Children's Bureau, (2021, January 12). *Information Memorandum: Civil Legal Advocacy to Promote Child and Family Well-being. Address the Social Determinants of Health, and Enhance Community Resilience.* ACYF-CB-IM-21-02.

# Multi-disciplinary Teams

Our goal is to make sure not only that the legal need is met, but that all needs are met so that the family doesn't come back in contact with the child welfare system. <sup>25</sup>

— MICHELLE JUNGERS,  
MANAGING ATTORNEY, IOWA LEGAL AID

The social worker on the team assesses the family's strengths and weaknesses and provides case management. He or she works with existing community partners to help the parent or caregiver access a network of services, such as transitional housing, counseling, and where needed, substance abuse and mental health treatment. The social worker often works cooperatively with the child welfare agency caseworker to create a mutually agreeable safety plan for the parent to meet his or her child's needs. <sup>26</sup>

A parent advocate – a parent who, his or herself, has experienced the child welfare system – provides clients with a unique perspective of how to navigate the system and helps parents stay focused and motivated in the face of adversity. Through this multidisciplinary team approach, these programs work collaboratively with child welfare agencies and others in the community to resolve legal issues, support families to solve their related problems in order to keep children safely in their homes. <sup>27</sup>

attorney

social  
worker

peer  
advocate

25. Casey Family Programs (2020), *How Can Pre-Petition Legal Representation Help Strengthen Families and Keep Them Together?*, available at <https://www.casey.org/preventive-legal-support/>

26. Sankaran, Vivek. "Case Closed: Addressing Unmet Legal Needs and Stabilizing Families." M. L. Raimon, co-author. Center for the Study of Social Policy (2014). 4. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1085&context=other>

27. Id.

# Upstream legal issues

## LEGAL AID HELPS...

Children sometimes enter foster care due to unresolved legal issues, like housing instability or abuse. When a family receives legal representation before child protective services involvement – like at an eviction hearing – the family can remain housed and children can stay in school to avoid other negative effects of dislocation.<sup>3</sup> Similarly, when parents find themselves unable to care for their children due to mental health issues, financial hardship, incarceration, or substance use disorder, legal help to appoint relative caregivers can prevent the children from entering traditional foster care.

28.

Legal advocacy may include addressing food, income, and housing insecurity; protection from wrongful denial of government entitlements and benefits; tackling educational issues such as special education eligibility; and securing protection from intimate partner violence. <sup>29.</sup>



28. The Justice in Government Project & NLADA, (2020, April) *Civil Legal Aid Helps Keep Families Together and Out of the Child Welfare System*. Fact Sheet. <https://legalaidresourcesdotorg.files.wordpress.com/2021/04/foster-care-factsheet.pdf>

29. Casey Family Programs. 2021, August 19. Preventive Legal Advocacy. <https://www.casey.org/preventive-legaladvocacy-topic-page/>

## PLA in action

Common civil legal issues include, but are not limited to:

30

- Housing, access to adequate housing, habitability, eviction, and foreclosure;
- Unemployment;
- Immigration;
- Custody and marriage or civil partner dissolution;
- Fair Wage and hour matters in employment;
- Disability rights;
- Education and special education;
- Identity or wage theft;
- Unfair debt collection;
- Certain moving violations, and unpaid fines and fees;
- Expunging an old criminal record;
- Public benefits (i.e., TANF, SSI)
- Paternity;
- Intimate partner violence; and
- Child support.

- **Allow time to listen, build rapport, and help families stabilize.** Jey Rajaraman, chief counsel of Legal Services of New Jersey's Family Representation Project, emphasizes the importance of taking adequate time to ensure that families are truly stabilized. She says, "In prevention cases, you have breathing room, because ASFA (the federal Adoption and Safe Families Act) does not apply. So you can take your time to assess and understand the situation, and make sure the family feels safe." Like New Jersey, Iowa Legal Aid leaves cases open as long as necessary to ensure all issues that put the family at risk have been addressed. In addition, past clients are welcome to call at any time with follow-up questions.

32.

- **Range of legal expertise.** Program leaders agree that a holistic advocacy approach is important to help families remain safely together in the short term and avoid repeat involvement with the child welfare agency. Access to legal expertise in a variety of areas (such as housing, education, and immigration) is useful to effectively serve families with complex circumstances. Some programs are housed within legal aid organizations, which have the advantage of ready access to attorneys with expertise in many poverty-related issues.

31

**FY 2019: 71% of all low income families experienced a legal issue that would have benefited from representation**

33.

30. Children's Bureau, (2021, January 12). *Information Memorandum: Civil Legal Advocacy to Promote Child and Family Well-being. Address the Social Determinants of Health, and Enhance Community Resilience.* ACYF-CB-IM-21-02.

31. Casey Family Programs (2020), *How Can Pre-Petition Legal Representation Help Strengthen Families and Keep Them Together?*, available at <https://www.casey.org/preventive-legal-support/>

32. Id.

33. Children's Bureau , (2020, June 23). *The AFCARS Report: Preliminary 2019 Estimates as of June 23, 2020.* N. 27 <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport27.pdf>

# The intersection of civil legal aid and child welfare:

34

Travis P., a 7-year old child, and his family became homeless after their landlord illegally evicted them and kept both their security deposit and first month's rent. As a result, Travis, his siblings and his mother bounced between the homes of relatives. When the frequent moves caused Travis to miss school, he came to the attention of Child Protective Services (CPS), which became concerned that Travis' educational needs were being neglected. What Travis and his siblings needed more than anything else was a stable home. And to get that, their mother needed a lawyer to help recover her security deposit from her former landlord and a social worker to help them find housing. Without the lawyer and social worker's help, CPS may well have determined that Travis' situation was unsafe and removed him and his siblings from their mother and placed them in foster care. Travis's family needed a team behind them that was willing to tackle the serious legal issues that were a primary obstacle to the family's stability and safety.

Ultimately, Travis P. did not enter foster care. His family was referred to CFA's multidisciplinary legal team. An attorney on the team negotiated with the landlord to recover the family's security deposit and first month's rent. With that money, the team's social worker helped the family obtain new housing in a transitional living program. And while this process was taking place, the parent advocate worked with Travis' mother to help her understand why child protective services was involved and how to work cooperatively with them. Travis remained safely with his mother and siblings and child protective services closed its case.

34. Sankaran, Vivek. "Case Closed: Addressing Unmet Legal Needs and Stabilizing Families." M. L. Raimon, co-author. Center for the Study of Social Policy (2014). 4. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1085&context=other>

35



*"We are very fortunate to partner with Legal Aid, which is equally invested in the academic success of our students. Legal Aid education advocacy has led to steady improvement in school enrollment and stability, drastic reductions in disciplinary removals and overall academic improvement for our students. Their work has been a big part of KISR!'s success."*

- Referrals to Legal Aid ensure protection of legal rights of children with disabilities.
- In 2016-17, 62 of 77 cases of KISR! students represented by Legal Aid involved modifying or implementing an IEP or 504 Plan or obtaining appropriate interventions.

Margie Weaver, Assistant Director, Children Services, HCJFS

In 2016-17, Legal Aid prevented or mitigated disciplinary removals for 42 KISR! students.

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The Nebraska Children and Families Foundation and Legal Aid of Nebraska are working together to **keep families out of the Juvenile Court system**. By providing the legal services a family needs before a juvenile court case is filed, we can keep families together and keep children out of the foster care system.

SOME OF THE LEGAL SERVICES AVAILABLE

- ▶ Guardianships, to insure that a responsible person has legal authority over a child
- ▶ Housing Assistance, to insure that a family has a suitable home
- ▶ Protection from Domestic Abuse, to insure that family members are safe
- ▶ Public Benefits, to insure that families have medical and financial support

39

38

*"Early identification and intervention by the Public Defender Office and partners, can facilitate a process by which the family remains intact while having the benefit of closely monitored intervention to prevent removal."*

Our Approach

The Public Defender FIRST program offers a multidisciplinary approach which includes a team of attorneys, social workers and parent advocates that are available to assist the family. Our attorneys provides legal advice to the parent on areas relating to DCFS involvement and possible outcomes. Our social workers meet with the parent to assess the services that may be needed and ensure that the appropriate referrals are made. Our parent advocates assist the parent by providing additional support, as needed, connecting the parent to community resources and providing encouragement and guidance.

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What is the Domestic Violence Family Preservation Project?

Housed in the Family Law Unit at Greater Boston Legal Services, the Domestic Violence Family Preservation Project provides free representation to low-income survivors of domestic violence who are engaged in custody disputes with their abusers while also involved with the Department of Children and Families (DCF).

The Legal Need

When survivors of domestic violence call the police on abusers, what they might not know is that, if the children are present at home, the police must call DCF. Once DCF is called, the family is at risk of separation; however, despite the important rights at stake, parents are not guaranteed a lawyer at this early stage, nor must DCF inform parents of their rights. The Domestic Violence Family Preservation Project provides such early representation, working to keep families who have already been traumatized by domestic violence together.

Representation through the Project

How can the ORPC help?

We can provide preventive legal services to help with

- > Housing and eviction
- > Custody and visitation
- > Guardianship
- > Parentage/Paternity
- > Orders of protection
- > Advice on a pending criminal matter
- > Immigration

Who is eligible?

- > Parents who live in Jefferson County
- > Parents with limited income
- > Parents with an outstanding legal problem that is impacting their family's safety

35. Legal Aid Society of Greater Cincinnati, KISR! Program Report, (2018, December). *Yesterday, Today and Tomorrow* .

36. Legal Aid of Nebraska <https://www.legalaidofnebraska.org/how-we-help/what-we-do/children-and-families/>

37. Greater Boston Legal Services <https://www.gbls.org/our-work/family-law>

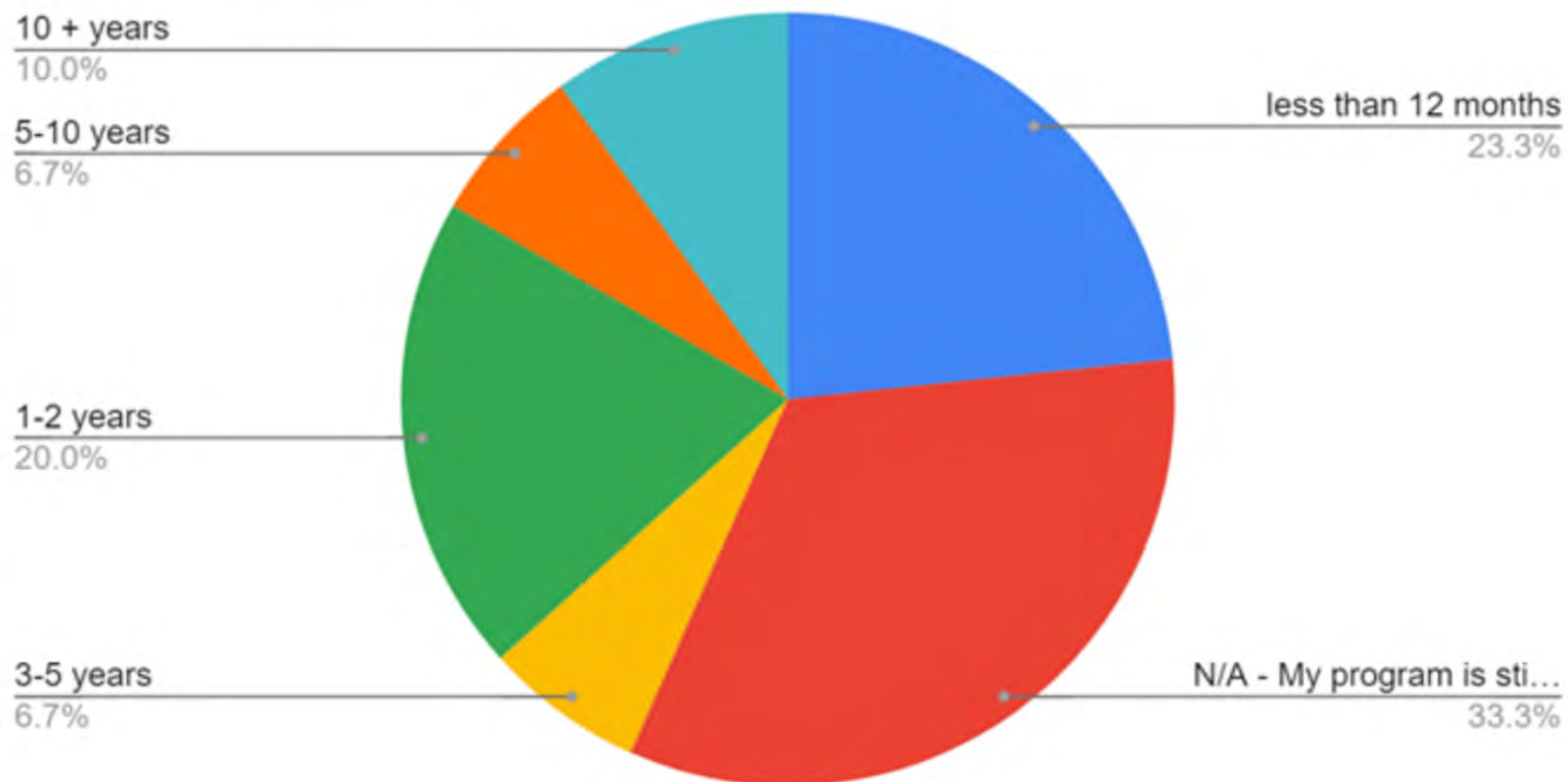
38. Family Intervention Representation Services Team, Cuyahoga County, Ohio

39. Office of Respondent Parents' Counsel, Colorado <https://coloradoorpc.org/>



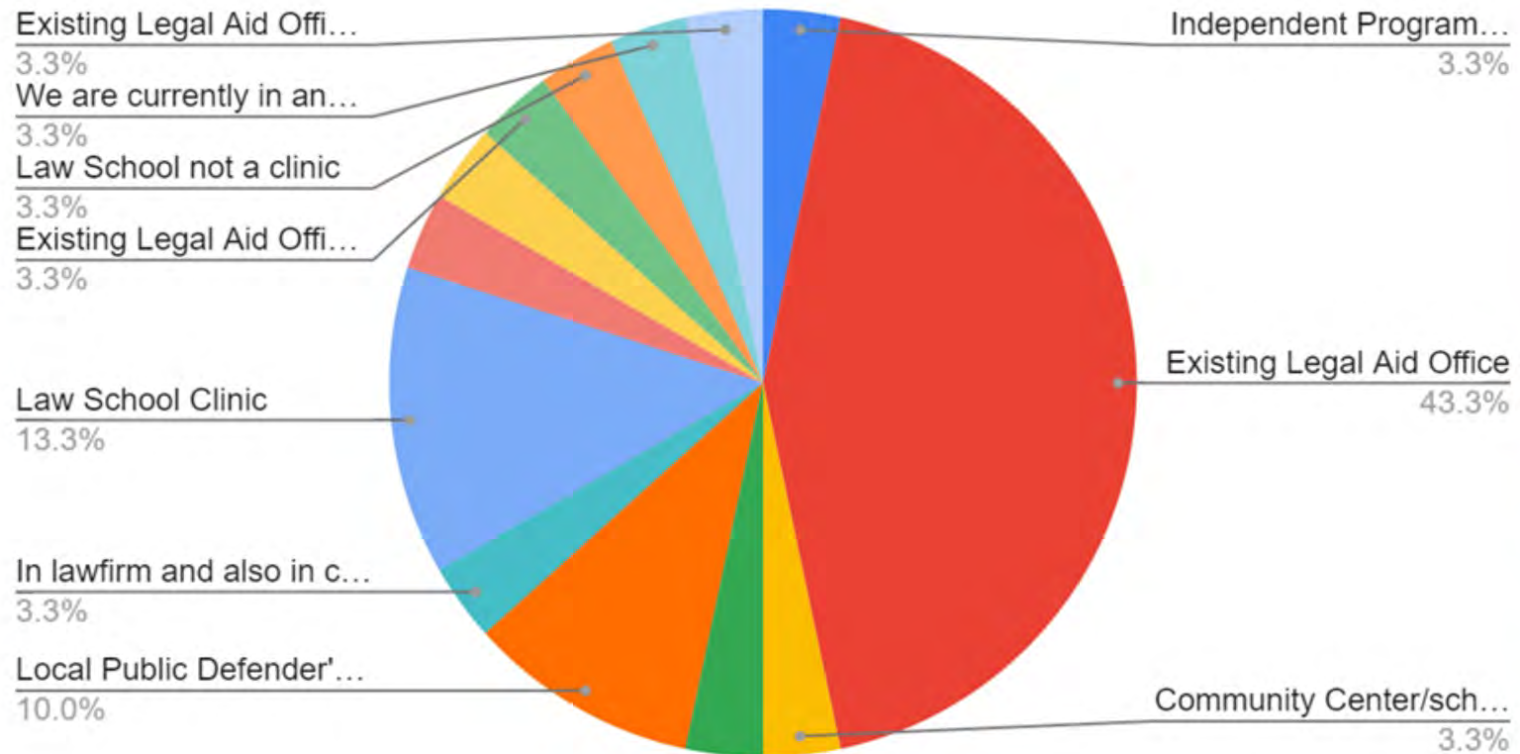


If your program is currently operational, how long have you been in operation?



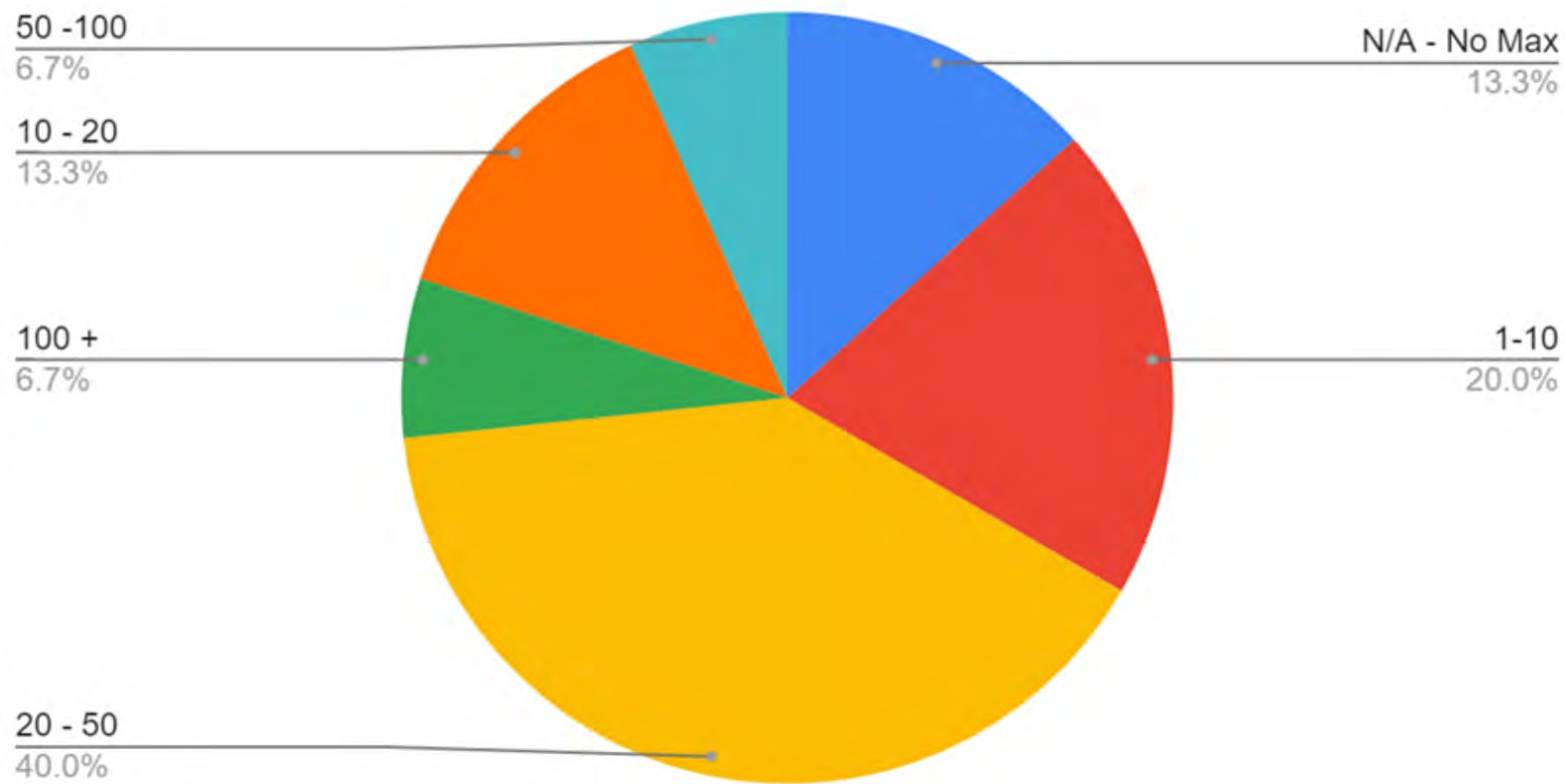
40. Cook, E. (2022). [Unpublished raw data on Preventive Legal Advocacy Questionnaire]. Barton Child Law & Policy Center, Emory University School of Law.

## Where is your program currently housed, or where will it be housed?



41. Cook, E. (2022). [Unpublished raw data on Preventive Legal Advocacy Questionnaire]. Barton Child Law & Policy Center, Emory University School of Law.

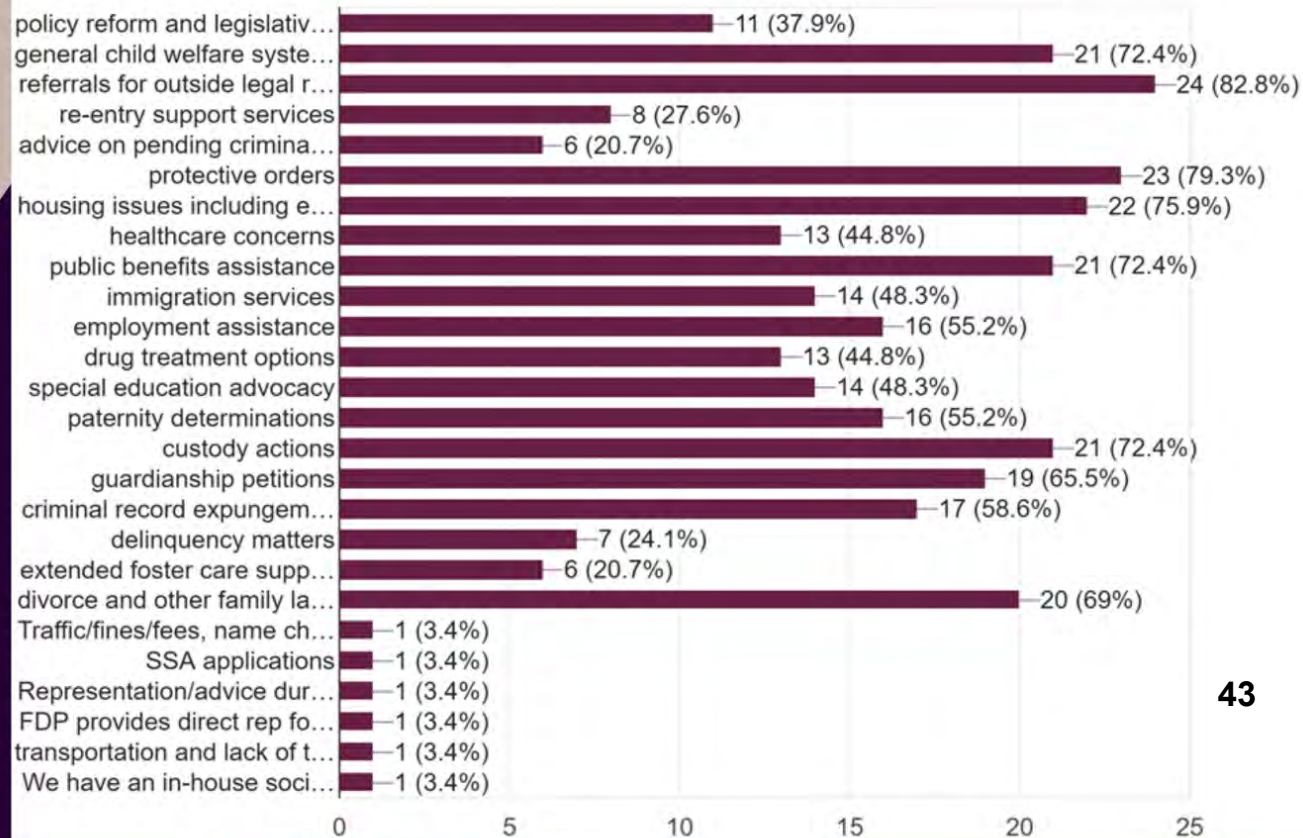
How many cases does/will your program handle at any one time - i.e. max case load?



42. Cook, E. (2022). [Unpublished raw data on Preventive Legal Advocacy Questionnaire]. Barton Child Law & Policy Center, Emory University School of Law.

With which of the following issues does your program provide assistance? Please check all that apply. If your program is not yet providing services...ase indicate which services you intend to provide.

29 responses

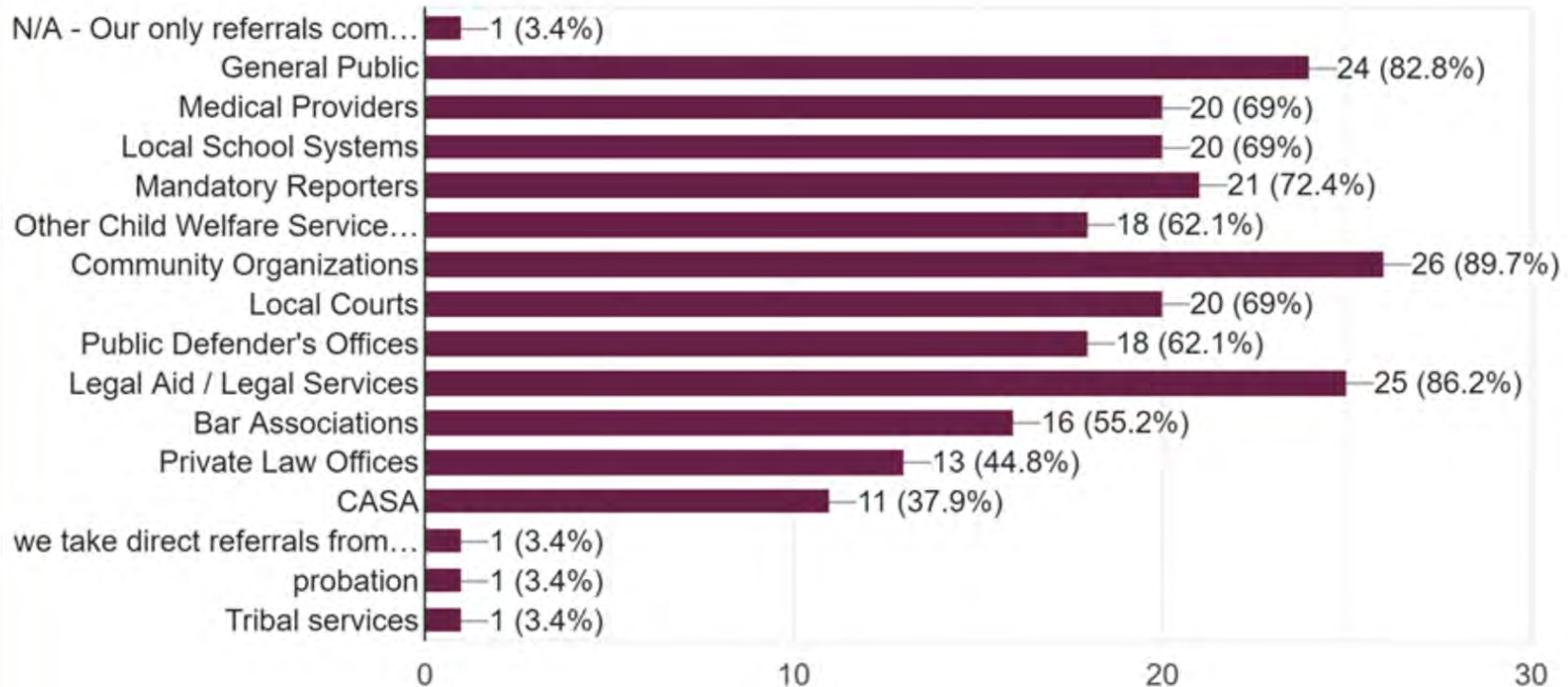


43

43. Cook, E. (2022). [Unpublished raw data on Preventive Legal Advocacy Questionnaire]. Barton Child Law & Policy Center, Emory University School of Law.

If you answered "Yes" to the question above, please identify your other referral sources. Check all that apply. If you responded "No," please reply N/A.

29 responses

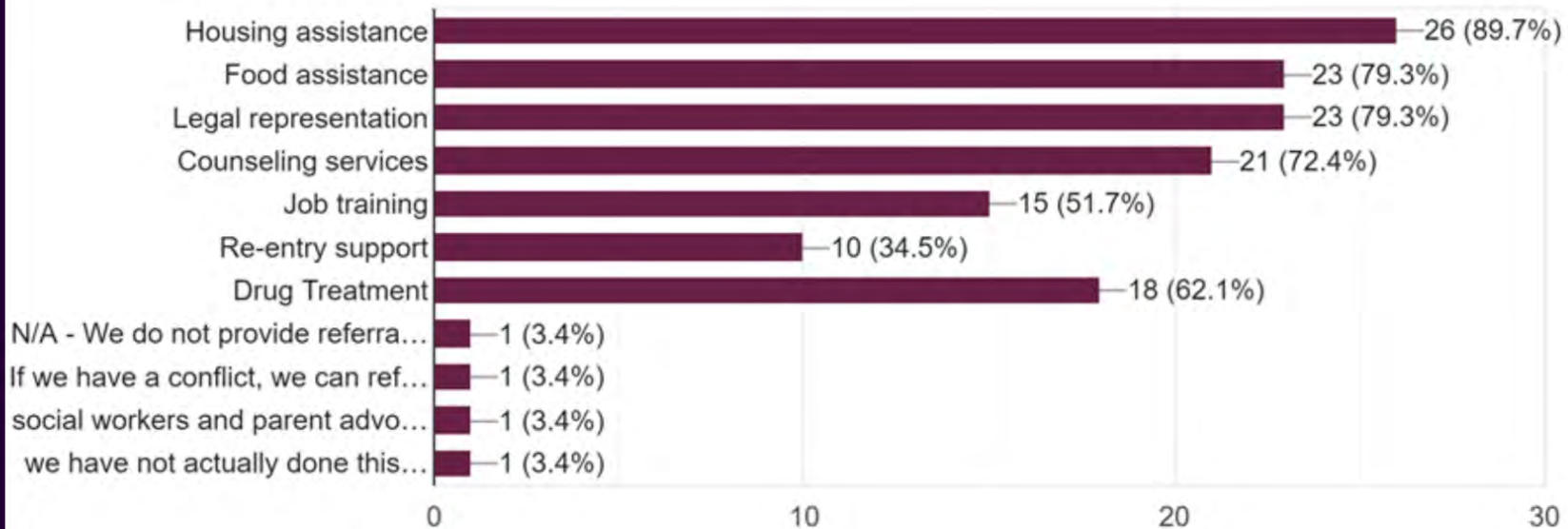


44. Cook, E. (2022). [Unpublished raw data on Preventive Legal Advocacy Questionnaire]. Barton Child Law & Policy Center, Emory University School of Law.

# 93% of programs refer clients for outside resources

If you answered "Yes" to the question above, which types of services do you provide referrals for? Please check all that apply. If your program does ...referrals for outside services, please select "N/A".

29 responses



45. Cook, E. (2022). [Unpublished raw data on Preventive Legal Advocacy Questionnaire]. Barton Child Law & Policy Center, Emory University School of Law.

## Funding Sources

46



46. Cook, E. (2022). [Unpublished raw data on Preventive Legal Advocacy Questionnaire]. Barton Child Law & Policy Center, Emory University School of Law.



# Preventive Legal Advocacy in Action



**Legal Services of New  
Jersey Family  
Representation Project**



**Legal Aid Society of  
Cleveland Partnership  
with Cuyahoga County  
Public Defender**



**Legal Aid of West  
Virginia Lawyer in  
the School Project**

**Legal Services of New Jersey (LSNJ)** began its statewide work in preventive legal services in 2018 and has since received over 200 referrals. Across all those resultant cases, zero children have been removed from their home. Like the Detroit and Iowa programs, clients that are referred to LSNJ have child welfare safety concerns that are poverty-based; LSNJ estimates that 90% of their prepetition clients have unstable housing. They also use a multidisciplinary staffing model and rely on other legal services attorneys with specific expertise to ensure that their clients' holistic needs are met.<sup>28</sup>

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To address this problem, LSNJ introduced an initiative in 2018 to increase access to legal services for parents and children involved with DCPD. LSNJ receives client referrals directly from DCPD caseworkers, allowing advocates to quickly identify and assist with critical legal issues to help prevent unnecessary removals and ultimately keep families together. These cases involve a variety of issues such as pending evictions, unpaid child support, domestic violence, immigration status concerns, welfare denials, housing voucher terminations, and barriers to accessing medical care and education. LSNJ collaborates with the agency to support the family and helps agency staff recognize that unstable housing or other poverty issues are not neglect.

48

*200 referrals  
received, 0 children  
entered care*

47. Clemens, E. V., Gase, L. & Wegner, A. K., (2022, May 11). Office of Respondent Parents' Counsel: Preventive Legal Services Implementation Guide. State of Colorado ORPC. 12.

48. Giordano, G., & Rajaraman, J. (2020, December 15). Increasing Pre-Petition Legal Advocacy to Keep Families Together. Americanbar.org. Retrieved October 26, 2022, from <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2020/winter2021-increasing-pre-petition-legal-advocacy-to-keep-families-together/>

**The Family Intervention and Services Representation Team (FIRST)** of Ohio is a collaboration between the Cuyahoga Public Defender Office, the Cuyahoga County Division of Children & Family Services, and the Legal Aid Society of Cleveland, Ohio. The Cuyahoga Public Defender's Office receives referrals from the Department, and then a multi-disciplinary team evaluates family needs to determine whether civil legal services may be required. Where necessary, the FIRST team refers the case to the Legal Aid Society of Cleveland for resolution of any underlying civil legal issues.



The Legal Aid Society of Cleveland and Community Legal Aid jointly commissioned The Center for Community Solutions to survey former clients about how civil legal aid impacted their lives.

The Center for Community Solutions surveyed more than 1,200 former clients across 13 counties in Northeast Ohio to find out what impact their civil legal aid experiences had on their lives, and the lives of their families, years after their cases closed.

49. Clemens, E. V., Gase, L. & Wegner, A. K., (2022, May 11). Office of Respondent Parents' Counsel: Preventive Legal Services Implementation Guide. State of Colorado ORPC. 12.

50. The Center for Community Solutions (2018, June). Securing Stability: Legal Aid's Lasting Impact. Community Legal Aid & The Legal Aid Society of Cleveland. 20. <https://www.legalaidimpact.org/>

51. Id.

The goal of LAWV's Lawyer in the School Project is to stabilize the lives of elementary school children who attend Title I schools in some of WV's most challenged communities by providing onsite legal help to their families on issues such as eviction, disrupted income, and legal custody for caregivers.<sup>1</sup> While the lawyer in the school service model was initially developed as a Legal Services Corporation (LSC) pro bono grant, project staff quickly identified substance use disorder as a major issue for the families they served, many of whom were headed by kinship caregivers. LAWV Applied for and received a Department of Justice Office for Victims of Crime (DOJ OVC) grant earmarked for assisting children impacted by the opioid epidemic, Enhancing Community Responses to the Opioid Crisis: Serving Our Youngest Crime Victims. With this funding, the Project provides onsite legal help to affected children and their caregivers at regular school-based clinics in Marion, Cabell, and Wayne counties, screens families to determine whether they are in need of longer term direct representation, provides legal information presentations to families, and participates in a community response network.

52. Children's Bureau, (2021, January 12). Appendix A: Examples of Civil Legal Advocacy Programs and Approaches to Promote Well Being. *Information Memorandum: Civil Legal Advocacy to Promote Child and Family Well-being, Address the Social Determinants of Health, and Enhance Community Resilience*. ACYF-CB-IM-21-02.



**MARYLAND OFFICE OF THE  
PUBLIC DEFENDER**



## **HAYLEY LICHTERMAN**

**Deputy Division Chief**

**Parental Defense Division**

**Maryland Office of the Public  
Defender**

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## **JOHN WHITE LAW**

**Advocacy Director**

**Community Legal Aid Society, Inc.  
Delaware**

# Looking ahead . . .

data  
collection

**View Rule** **53**

[View EO 12866 Meetings](#) [Printer-Friendly Version](#) [Download RIN Data in XML](#)

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HHS/ACF RIN: 0970-AC89 Publication ID: Fall 2021

**Title:** •Foster Care Legal Representation

**Abstract:**

This regulation proposes to allow a title IV-E agency to claim Federal financial participation for the administrative cost of providing independent legal representation to a child who is either a candidate for foster care or in foster care, and his/her parent to prepare for and participate in judicial determinations in foster care and other related civil legal proceedings.

**Agency:** Department of Health and Human Services(HHS) **Priority:** Economically Significant

**RIN Status:** First time published in the Unified Agenda **Agenda Stage of Rulemaking:** Proposed Rule Stage

**Major:** Yes **Unfunded Mandates:** No

**CFR Citation:** [45 CFR 1356.60\(c\)](#)

**Legal Authority:** sec. 474(a)(3) of the Social Security Act sec. 1102 of the Social Security Act

**Legal Deadline:** None

**Statement of Need:**

Allowing title IV-E agencies to claim Federal reimbursement for independent legal representation in legal proceedings that are necessary to carry out the requirements in the agency's title IV-E plan, including civil proceedings, may help prevent the need to remove a child from the home or, for a child in foster care, achieve permanence faster. Research demonstrates that some of the circumstances bringing families into contact with the child welfare system (poverty, educational neglect, inadequate housing, failure to provide adequate nutrition, and failure to safeguard mental health due to domestic violence) can be addressed before a child enters foster care by providing legal representation early in foster care legal proceedings and in civil legal matters. When children are removed from the home, studies show having access to legal representation for civil legal issues earlier in a case can improve the rate of reunification, nearly double the speed to legal guardianship or adoption, and result in more permanent outcomes for children and families.

tips for  
program  
design

support &  
resources

53. HHS/ACF Foster Care Legal Representation. RIN: 0970-AC89, Fall 2021

# Data drives funding . . .

## Your programs are already providing the services; now collect the data:

- Obtained decision that disciplinary incident was a manifestation of child's disability
- Overcame truancy allegation or sanctions
- Secured appropriate educational services in an inclusive and integrated setting
- Obtained wages and/or back pay due
- Obtained expungement of criminal record
- Obtained care of child guardian/adoptive
- Prepared agreement for temporary change in custody
- Obtained guardianship or conservatorship
- Prevented guardianship or conservatorship
- Avoided termination of parental rights
- Avoided protective order/removal of children
- Obtained a divorce or annulment (or legal separation)
- Established paternity for child
- Obtained protection from domestic violence
- Obtained protection for children relocation
- Obtained assistance with safety planning
- Obtained, preserved, or increased spousal support
- Dollar value of back child support
- State funds saved: TANF (obtained alimony/child support)
- Obtained assistance with Medicaid planning
- Federally subsidized housing created/preserved
- Protected Section 8 eligibility
- Obtained or protected housing subsidy
- Prevented eviction from subsidized housing
- Avoided or obtained redress for illegal or unfair landlord charges
- Avoided or prevented eviction from private housing
- Delayed eviction from private housing
- Delayed eviction providing time to seek alternative housing
- Private housing underpayment/overpayment remedied
- Obtained return of security deposit
- Overcame denial of tenant's rights under lease
- Obtained, preserved, or increased food stamp eligibility
- Food stamps clients' rights within program enforced
- Obtained, preserved or increased public assistance, TANF, or other welfare benefit/right
- Overcame denial of emergency assistance by DSS
- Client/family off welfare due to other benefits obtained
- Client/family off welfare due to obtaining support

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## Measuring impact and sustaining funding

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While PLA programs have an emerging record of success, obtaining continued funding is the greatest challenge to program sustainability. Demonstrable cost savings is one way to lay a foundation for continued funding, while some programs have created a funding stream within the setup of the multidisciplinary partnerships.

The Parent Representation Project is an Iowa Legal Aid initiative that began preventive legal services in 2014. Like CFA, the Parent Representation Project provides an interdisciplinary team to serve custodial parents with family law (e.g., domestic violence protection orders) and poverty-related (e.g., housing instability) needs in four counties, with a pilot expansion in up to six counties recently authorized.<sup>26</sup> In 2019, the Parent Representation Project closed 62 preventive legal services cases, serving 118 children. They estimate that for each dollar invested in their services, the return to the child welfare system, court system, and clients is \$4.36.<sup>27</sup>

56

54. *Outcomes catalog*. LSC. Retrieved October 26, 2022, from <https://www.lsc.gov/our-impact/civil-legal-outcomes/outcomes-catalog>

55. Casey Family Programs (2022, July). *Strategy Brief , Transforming Child Welfare Systems, What are Community Based Multidisciplinary Preventive Legal Advocacy Programs?* available at <https://www.casey.org/media/22.07-QFF-TS-Preventive-legal-advocacy-programs.pdf>

56. Clemens, E. V., Gase, L. & Wegner, A. K., (2022, May 11). *Office of Respondent Parents' Counsel: Preventive Legal Services Implementation Guide*. State of Colorado ORPC. 12.

**1. Learn about the existing resources in your state.** Rather than duplicate the services they already provide, you can connect and collaborate with them to meet clients' needs. **57**

**2. Jump in.** If your organization represents parents in litigation, don't be afraid to start doing pre-petition prevention work. You will likely find that, compared with litigation timelines, many of the pre-petition issues can be resolved relatively quickly. You do not need to have a huge team or many resources to dive in and start having an impact.

**3. Establish a multidisciplinary team made up of attorneys, social workers, and parent allies.** Having a multidisciplinary team helps build rapport with clients and meet their multifaceted needs.

**4. Create a strength-based program.** Parents should lead the conversations and set the goals and priorities of each case. Build parents' trust by allowing them to lead the conversation while you listen and then respond respectfully.

**5. Collaborate with local child welfare agencies and build relationships with caseworkers.** Ensure that local child welfare agencies understand that your priority is to advocate for your clients so that they get the outcomes they deserve. At the same time, it is important to recognize and commend caseworkers' efforts to support families.

57. Giordano, G., & Rajaraman, J. (2020, December 15). *Increasing Pre-Petition Legal Advocacy to Keep Families Together*. Americanbar.org. Retrieved October 26, 2022, from <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2020/winter2021-increasing-pre-petition-legal-advocacy-to-keep-families-together/>





## *Monthly PLA Cohort*

- *125 members*
- *monthly zoom mtgs*
- *shared resource google drive*

[etcook2@emory.edu](mailto:etcook2@emory.edu)

# Preventive Legal Advocacy:

Expanding the Availability of Family-Focused Civil Legal Advocacy to Prevent Unnecessary Child Welfare Involvement

**PLA  
BASICS**

**CURRENT  
TRENDS**

**PLA IN  
ACTION**

**PANEL  
DISCUSSION**

Hayley Lichterman  
John Whitelaw

**LOOKING  
AHEAD**

**EMORY  
LAW**

Emilie T. Cook, Esq.  
Preventive Legal Advocacy Fellow  
Barton Child Law & Policy Center

