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ARTICLE

Increasing Pre-Petition Legal Advocacy to Keep Families Together

Since the inauguration of its prevention work, Legal Services of New Jersey has received more than 200 referrals from across the state and not one child involved in those cases has been removed.

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When Markisha's case was referred to the Family Representation Project of Legal Services of New Jersey (LSNJ), Markisha was 25 years old, single, eight months pregnant, and a mother of one. Markisha found herself homeless when she was told she could no longer stay at the domestic violence shelter where she was placed. In collaboration with New Jersey's Division of Child Protection and Permanency (DCPP), LSNJ supported Markisha, helping her overcome homelessness and keep her family intact. A team of attorneys and social workers counseled Markisha on fair hearings, emergency funding applications, and other housing options. With LSNJ's help, Markisha found stable housing and is connected with continued community supports.

Stories of parents like Markisha are all too common. In New Jersey, when parents struggle from poverty-driven circumstances such as a pending eviction, a resource agency denial of welfare, a housing voucher termination, or inaccessibility to education and healthcare, DCPP is required to provide families with resources and services that eliminate safety concerns and support and stabilize families. Furthermore, under both state and federal law, poverty does not constitute abuse or neglect, and removing children for conditions created by poverty infringes on parents' constitutionally protected rights. However, despite the legal obligation to aid families in poverty, there are still many challenges in procuring DCPP's assistance. In New Jersey and across the country, many removals occur as a result of housing instability and other manifestations of multigenerational poverty, leading to devastating, yet preventable, trauma for children and families.

LSNJ's Pre-Petition Prevention Work

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.

When seeking the removal of children, DCPD must show that reasonable efforts have been made to preserve the family unit. However, parents do not have a right to legal representation until after their children have already been removed. LSNJ's pre-petition prevention work seeks to rewrite this narrative to provide services that prevent removal from ever happening and to show clients that they are supported in their goal of family unification or preservation before an agency files a petition to remove a child.

The LSNJ Model for Removal Prevention

The LSNJ Model for Removal Prevention takes a comprehensive approach to addressing child welfare concerns, empowering clients and providing multidisciplinary support through a team of legal advocates, social workers, and a parent ally mentor. The process begins with DCPD caseworkers, supervisors, and investigators identifying a family with child welfare safety concerns rooted in poverty. If DCPD is unable to resolve these concerns with the available tools and services, it refers the case to LSNJ for intake and advice. Each case is assessed by an LSNJ Family Representation Project attorney for its specific needs, and based on that initial assessment, the client receives advice on the child welfare process within 24 hours from that initial contact. The client learns his or her rights and also has the comfort of knowing that DCPD and LSNJ are supporting the client's efforts to keep his or her family together. The LSNJ advocate also asks the client about the client's concerns and goals and then uses this information to refer the case to other members of LSNJ's multisectoral team. LSNJ advocates, social workers, and other team members regularly check in with the client, ensuring that the client feels supported in achieving his or her goals.

Outcomes

Since the inauguration of its prevention work in 2018, LSNJ has received more than 200 referrals from across New Jersey and *not one child involved in those cases has been removed*. Accordingly, over 300 children have remained safely with their families and avoided the trauma of being separated. All families who have been referred to LSNJ have qualified financially for LSNJ's advice, meeting the minimum poverty requirements for assistance. Thus, every one of the families lives well below the federal and state poverty levels. While the types of cases vary, LSNJ has found that housing instability is a common theme. Eighty percent of the referrals that LSNJ receives are identified by DCPD as being at risk of losing housing. Further illustrating this trend, based on LSNJ's intake, 90 percent of our pre-petition clients have unstable housing. Other common themes include difficulty accessing financial resources and overlapping concerns. For example, a case involving housing instability may have been caused by the denial of financial resources, and this same client may be facing immigration deportation or struggling to access education. When LSNJ receives a case with amalgamated issues, it refers the client to other LSNJ advocates who specialize in areas such as immigration, education, or healthcare.

Clients report that their LSNJ advocates and DCPD caseworkers have enabled them to take agency over their roles as parents, made them feel valued, and helped them learn how to believe in themselves. Tanya, a former pre-petition client, says the following about her experience with her DCPD caseworker:

She really saw that I was going through a lot and she did everything possible to make sure the home was stable, that I wouldn't lose my section 8, [and] that I would get as much help as I needed for my daughter. It could have easily gone a different route if my DCPD caseworker didn't listen to me and see that I was really going through something.

In Tanya's case, LSNJ's and DCPD's collaboration enabled her to keep her section 8 voucher—thereby stabilizing her housing situation and keeping her and her daughter together.

It is also worth noting that New Jersey has a significant overrepresentation of Black/African American children in the foster care system. In other words, a disproportionate number of child welfare referrals and placements involve Black/African American children and families. In Essex County in 2019, while Black/African American children comprised 39 percent of the Essex County child population, this racial group comprised 72 percent of the population of children entering

placement. On the other hand, while White, non-Hispanic children comprised 24 percent of the Essex County child population, this racial group comprised only 7 percent of children entering placement ([NJ Child Welfare Data Hub](#)). LSNJ's prevention work has helped to prevent removals and support families in communities of color, thereby combating the insidious trends that have plagued the child welfare system throughout history and continue to have a devastating impact on communities of color throughout the United States.

LSNJ's Parent Ally Program

LSNJ's "parent ally" program is the first of its kind in New Jersey. The parent ally is a part of LSNJ's pre-petition team and plays a critical role in supporting parents and preventing child removals resulting from poverty-induced circumstances. LSNJ's first parent ally, Iesha, has assisted in 20 prevention cases. She speaks with parents and families and uses her perspective and experience to provide support. As someone who has experienced the child welfare system as both a child and as a mother, she possesses a dual perspective that has driven her to feel passionately about helping other struggling parents. Using her story to empower others, Iesha encourages parents to believe in themselves and find their voices just as she found hers.

Advice for Legal Services Organizations Seeking to Begin Pre-Petition Prevention Programs

Pre-petition work is a proven way to prevent removals based on poverty and to combat systemic racism in the child welfare system. Here are some lessons learned from the LSNJ program:

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. Parent input should consistently guide your work and programmatic priorities. Remember that the most important perspective in prevention work is that of the parent.

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.

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. Parent allies are parents who have been involved with the child welfare

system and are interested in using their experiences to support and empower other parents. Parent allies bring an invaluable perspective to pre-petition prevention work and can help gain clients' trust.

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. Encourage the caseworkers who are working hard to prevent removals and keep families together.

Look to pro bono. Work with pro bono attorneys who want to volunteer to do pre-petition prevention work. Another way to find more attorneys interested in assisting with this work is to collaborate with your state bar.

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.

Pre-petition legal advocacy challenges child welfare agencies to support families rather than threaten removal. Prevention work helps to ensure that child welfare agencies focus their efforts on family unification and meet their legal obligation to make reasonable efforts to preserve the family unit before filing a petition for removal. Prevention efforts also push back against the disproportionate impact that child welfare removals have had and continue to have on families and communities of color. Preventing child welfare removals means deciding 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.

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