

Reflecting on the Relationship between COVID-19 and the Movement to Expand Preventive Legal Advocacy and Pre-Petition Programs

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COVID-19 undoubtedly changed both the child welfare and civil legal services landscapes. In the years since the pandemic, there has been a steady increase in the number of new preventive legal advocacy and pre-petition programs nationally; yet, the relationship between COVID-19 and growing interest in early legal advocacy programs designed to prevent unnecessary family separation is less than self-evident. Rather than demonstrating a tidy, linear path from crisis to investments in new legal service strategies, COVID-19 kicked off an eruption whose shockwaves rippled through the child welfare system disrupting long-held beliefs and unsettling the child protection landscape. It is not that preventive legal advocacy and pre-petition programs emerged in the wake of COVID-19, but rather that the pandemic gave rise to a variety of shifting priorities and perspectives, the confluence of which served as fertile grounds for advancing a whole host of pre-existing policies intended to keep families together. In this way, the pandemic frames a rather disjointed narrative about opportunities to carve out a space for early legal representation in the post COVID-19 landscape.

In April 2020, Columbia University Medical Center pediatrician, Nina Agrawal, penned a *New York Times* op-ed entitled, “The Coronavirus could cause a Child Abuse Epidemic.. In her op-ed, Agrawal argued that the pandemic had created a perfect storm which would allow child abuse to go largely unchecked (Agrawal, 2020). Her concerns were echoed by many who feared the worst for families experiencing loss of income, isolation, and other known stressors just as child welfare agencies reduced in-home visits, and many juvenile and family courts ceased all but emergency operations. (Child Welfare 7-9).

Across much of the country, reductions in the rates of CPS reports and removals in the early days of the pandemic were dramatic (Brown, 2023; Administration for Children and Families, 2020). In New York City, for example, the number of children removed from their homes for abuse and neglect fell by more than 50% (Arons, 2022). Many feared these trends were the result of underreporting rather than a decline in instances of abuse and neglect (Schmidt & Natanson, 2020). Nevertheless, long relied upon indicators of child maltreatment suggested children might be no less safe despite the forced curtailing of surveillance and petition filings (Campbell et al., 2023; Sege & Stephens, 2022). In many jurisdictions, quarterly reporting following the pandemic failed to reveal the expected

rebound spike in reports and substantiations (Collins, 2023; see e.g., O. Carter).

These findings surprised many stakeholders and encouraged policy makers to consider whether pandemic relief payments and protective factors like the increased presence of mothers in the home had proven a more effective means of prevention than traditional strategies tantamount to family surveillance. (See e.g. Weiner, Friedman, Campbell). In this way, child welfare data related to COVID-19 accomplished two things: it lent credence to ongoing prevention efforts targeting poverty, and it reinvigorated calls for system reform and abolition as a means of addressing the very real traumas of family separation.

Dedicated advocates took note of the resulting focus on risk versus safety. They ramped up efforts to distinguish poverty from neglect, and simultaneously worked to



The fact that the Family First Prevention Services Act was rolling out at this same time contributed to the opportunity for early legal advocacy programs. While FFPSA fails to directly address legal services as a prevention strategy, its funding opportunities elevated prevention to the forefront of policy discussions, even ahead of the pandemic. Just as FFPSA effectively shifted the child

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highlight the importance of legal services as a tool to address the former and protect against conflation of the two (Friedman & Rohr, 2023, 71-83). Advocates also broached the need for due process and family Miranda with renewed vigor (See e.g., Olderman & Wesley, 2021; Friedman & Rohr, 78). Those efforts were fueled in large part by George Floyd's murder in the late spring of 2020, an incident which begged the country to reckon with the pervasive racial disparity in our public safety systems, including the family policing system.

In the wake of Floyd's murder, conversations about racial bias and social injustice were front-page news (Olorunnipa & Griff, 2020). COVID-19 also demonstrated that a smaller, less intrusive system renders children no less safe—a conclusion admittedly still in debate—and advocates were asking courts and policy makers to consider what role parent-attorneys should play in defending marginalized communities against the post-pandemic child welfare system, and to what degree due process might necessitate access to counsel in CPS investigations (Carter, 2021).

welfare field's focus to a broad range of prevention strategies, the widespread economic vulnerabilities brought on by COVID-19 created greater urgency around efforts to expand access to various indigent legal services (Kaplan, 2021, 13-15).

Safety, risk, prevention, trauma, poverty, race, reform, due process, legal aid: policy makers and practitioners were grappling with a whole host of considerations in the wake of COVID-19, and preventive legal advocacy and pre-petition representation presented an opportunity to address several all at once. Some organizations, like Massachusetts Law Reform Institute (MLRI), for example, recognized this potential.

In 2022, MLRI launched the Family Preservation Project and funded five preventive legal advocacy pilots to provide legal services to system-involved families as a means of preventing unnecessary removals (Brown, 2023). Home to the first of the five Massachusetts pilots, Community Legal Aid (CLA) in Springfield had been offering

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pre-petition defense to families facing neglect investigations since 2021. CLA's project was the result of a concerted effort to address racial disparity within the Hampden County child welfare system (Schoenberg), and MLRI's project represented a statewide expansion of those efforts. Around the same time, similar preventive legal advocacy projects took root in states like Ohio, California, Arizona, Oregon, and Maryland, among others.

While the preventive legal advocacy program model was hardly a new concept (Sankaran, 2014), the movement to expand early legal advocacy gained significant traction following the pandemic, and, in part, because of it. In the years since COVID-19, preventive legal advocacy and pre-petition programs have continued to serve as an effective tool in ameliorating racial inequities and avoiding unnecessary removals. The challenge now becomes sustainability, both with respect to funding for existing and emerging early legal advocacy programs, and, more broadly, the momentum necessary to continue meaningful policy change.

At their core, preventive legal advocacy and pre-petition programs protect families by promoting resilience and confronting policies that have long stacked the deck against vulnerable communities. These efforts are furthered not only by ensuring widespread access to early, high quality legal representation, but also by amending neglect statutes to ensure children are not removed—with or without formal court involvement—due to poverty, inadequate housing, mental illness, or substance use, absent a specific connection to imminent danger (Shapiro, 2021).

Efforts on the prevention front will no doubt continue in the post-pandemic era, but the degree to which policy advocates and attorneys continue to achieve meaningful advancements in the field of early legal advocacy will be a direct reflection of the value we place on child and family well-being in the years to come.

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Healthy Families America: Prevention and Healing Beyond the Pandemic

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knowledge and embedded that into its training and approaches with families. When family support specialists partner with families whose lives have been impacted by stress and trauma, they help them find healing and a safe space for emotional expression, to develop reflective capacity, and see the world through the eyes of their child. This includes:

- Having culturally humble and curious conversations to learn what nurturing looked like when parents were children and identifying the childrearing values they want to carry forward in their current family
- Utilizing a strength-based perspective, looking for opportunities to build on existing skills, and supporting parents as they consider new information
- Offering families many repeated pleasurable experiences of connection and partnership
- Using a shared language to talk about attachment and parent-child interactions
- Exploring and noticing together how infants and young children communicate their needs and how the parent feels equipped to respond to those needs.

The HFA approach is based on the belief that when the parent-child relationship is strengthened, children experience safety, predictability, comfort, and pleasure; consequently, child health and development, school readiness, and family and child well-being all naturally flourish. Investing in the power of positive relationships helps parents overcome adversity and changes the trajectory not only of their own life but of the next generation. Families tell us again and again that through Healthy Families, healing is possible.

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Bridging the Digital Divide for CA Foster Youth During a Pandemic

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is now enshrined in the California Foster Care Bill of Rights which ensures that every youth in care, regardless of placement, has the right to access phone, text, and internet communications. As a result of our rapid response coalition, 62% of CA foster youth ages 13 to 26 now have the ability to communicate with their own phone and internet access, up from 15% as measured by USC in 2016. And this continues to grow

daily since the California Public Utilities Commission has created a program within LifeLine, the state program providing free/low-cost phones to low-income individuals funded by the Universal Service Fund, to ensure every foster youth ages 13 to 26 has access to a smartphone with voice, text, data, and hotspot capability. This pilot program has already connected over 20,000 current and former CA foster youth and is being voted on shortly by the Commission to become a permanent program in California.

While it is unfortunate that it took a global pandemic to connect California foster youth, the digital future of our young people is assured. iFoster has partnered with the Administration for Children and Families to ensure that lessons learned from our California pandemic experience can help other states bridge the digital divide for their children and youth in foster care.

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not only helping current generations but also breaking cycles of adversity that can persist across families.

In conclusion, the FTIO program in New Hampshire represents a proactive and holistic approach to addressing the complex challenges faced by children of incarcerated parents. Through collaboration, innovation, and a commitment to supporting families, FTIO offers hope for a brighter future for these vulnerable children and their caregivers.

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