

Program Development Planning: Preventive Legal Advocacy for Fairbanks Families

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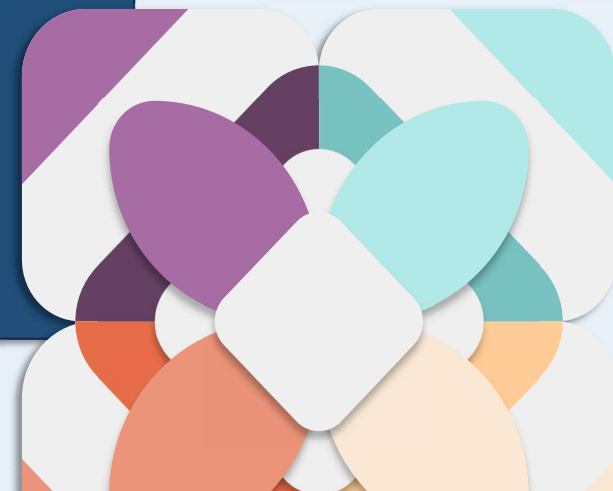
Preventive Legal Advocacy Fellow
Barton Child Law & Policy Center

NCJFCJ On-Site Training
June 21, 2024



Workshop Agenda

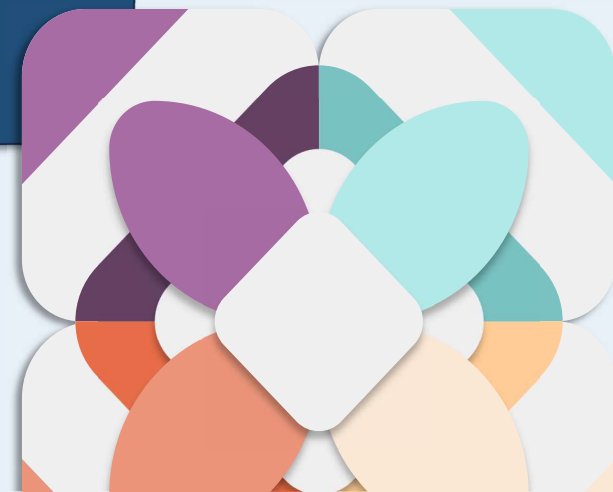
1. **Welcome & Introductions**
2. **Fundamentals of PLA & Pre-Petition Rep.**
3. **Exploring the Agency's Role**
4. **Identifying Local Need**
5. **Opportunities for Tribal Involvement**
6. **Developing an Action Plan**
7. **Closing Remarks**



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Welcome & Introductions

Fundamentals of PLA & Pre-Petition Rep.





Both PLA & PPR are part of the continuum of high-quality legal advocacy

Preventive Legal Advocacy (PLA)



Services that support families and promote the social determinants of health by addressing upstream civil legal issues that, if left unresolved, can result in unnecessary child welfare system involvement

Pre-Petition Representation

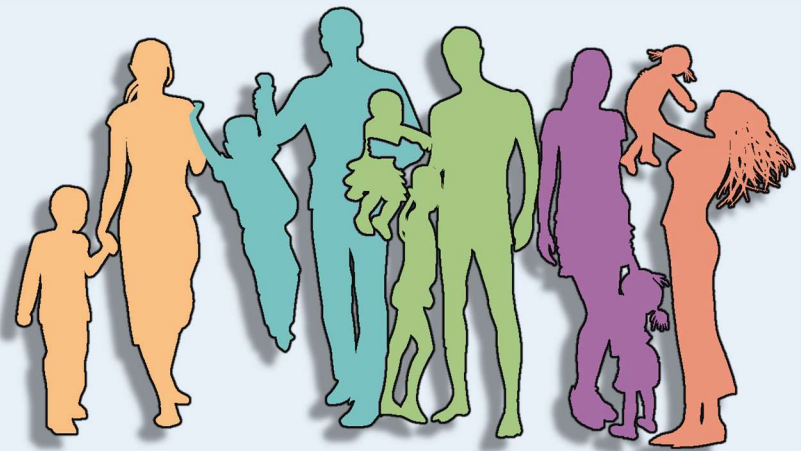
Legal services provided to families after they have come to the attention of CPS but before a petition has been filed in family court

The goal of pre-petition representation is to prevent the unnecessary and traumatic separation of children from their families, particularly when poverty-related issues are conflated with neglect.

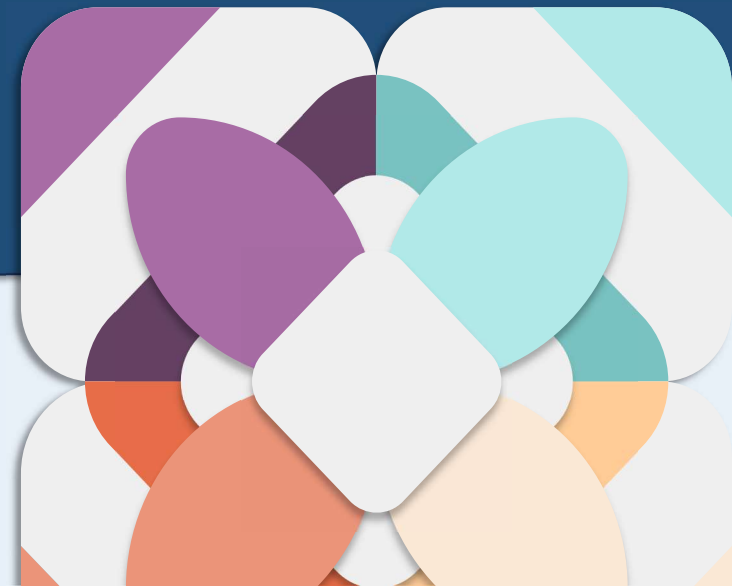


Nationally, preventive legal advocacy represents a response to system harms.

1. The child welfare field consistently conflates poverty with neglect. [learn more](#)
2. Too many families are subjected to unnecessary system involvement. [learn more](#)
3. These contacts with CPS and the system at large are inherently traumatic experiences for our families. [learn more](#)



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



- **Connecting social services to help keep children safe**
- **Working to prevent situations that lead to CPS calls**
- **Educating mandatory reporters in the community**
- **Providing legal representation to prevent investigations from leading to court involvement**
- **Providing legal services to support kin placements**



5 Common PLA Program Models Nationwide



Community-Partnered Programs

Independent programs with contract or full-time attorneys working in a multidisciplinary model to provide holistic advocacy to clients referred by community partners and/or the agency

Family Civil Legal Aid Programs

Existing legal aid and LSC offices addressing family civil legal needs via multidisciplinary teams where those offices don't usually represent parents in child welfare proceedings or where those services have historically been siloed.

Medical-Legal Partnerships (MLPs)

Programs partnered with hospitals or in-home nursing programs that refer pregnant or parenting families for partnered legal services. Some of these programs focus on substance exposed newborns while others may have a broader intake criteria.

Child Welfare Law-School Clinics

PLA Programs administered through Law Schools and Social Work Clinics, typically utilizing students to provide direct representation under the supervision of a clinic supervisor, may focus on Pre-Pet services or other civil matters

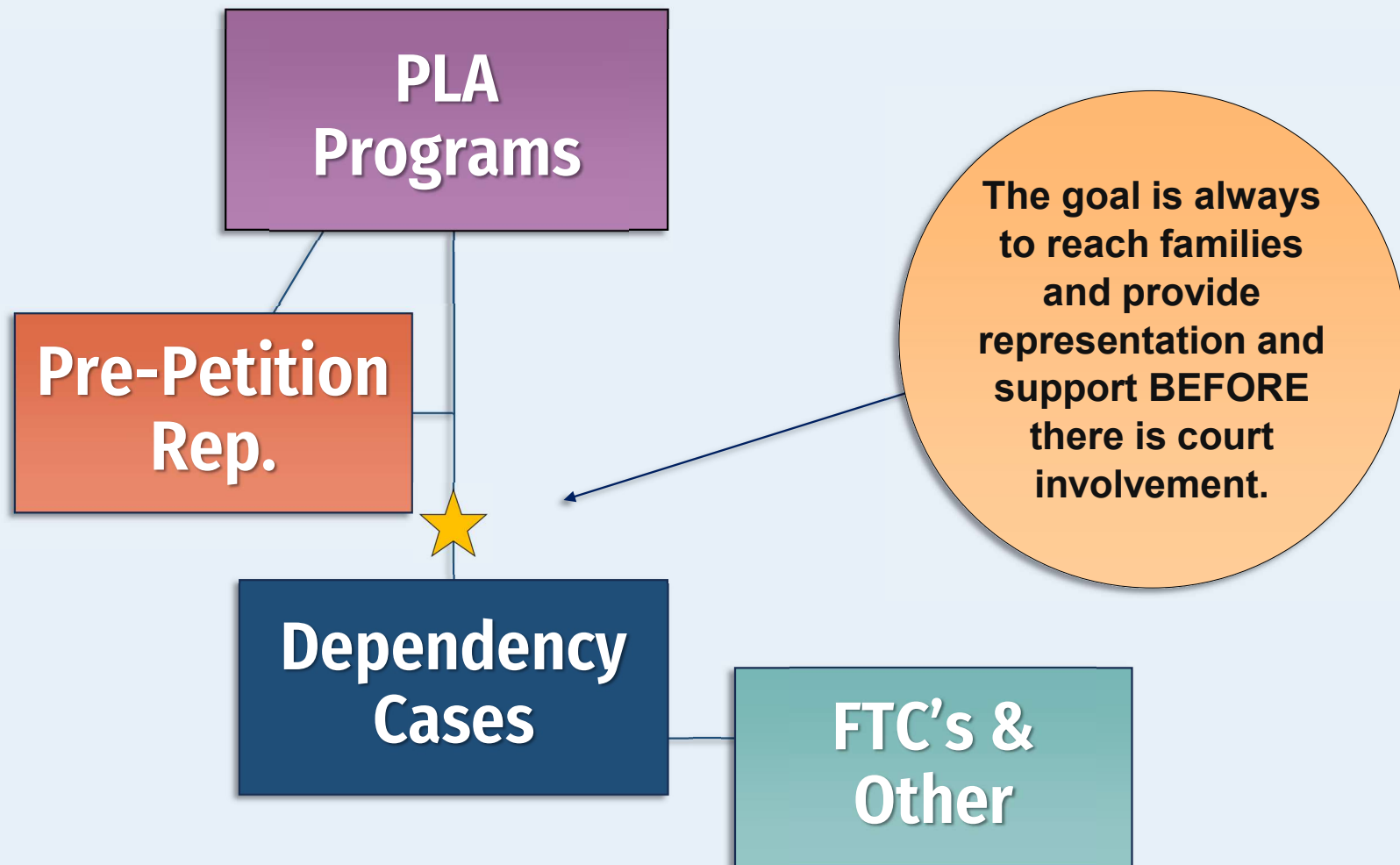
Pre-Pet. Extension Programs

Pilots for pre-pet appointment of traditional counsel (often IV-E Eligible), generally providing multidisciplinary representation during the CPS investigation and referring out for any other needed civil legal services.

Upstream Advocacy

Traditional Parent Rep.

PLA Programs are an Upstream Intervention





Civil Legal Issue: Family wrongfully evicted

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

PLA

PLA Team steps in and works with mom to prevent eviction.



Lack of Stable Housing Leads to Relapse

Mom loses her job and is unable to obtain housing. Moves to motel where stress leads to relapse.

PLA

PLA team pursues the deposit, helps with public housing application, and refers mom for treatment while ensuring child wellbeing.



CPS Report is Substantiated for Neglect

School grows concerned and CPS report is made. Investigator substantiates neglect stemming from inadequate housing & substance abuse.

PP

PP team counsels mom through the investigation and develops a "safety plan" to prevent the need for substantiation and removal.



Removal Order Signed & Children in Care

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

PP

Pre Pet Attny prepares a defense prior to PPH & works with team to prevent removal or prepare for a safe & quick return.

Already compiling a list of reasons why it won't work?

Yes, you have some significant challenges in the Northern Region:

- ✓ Limited resources
- ✓ Limited personnel
- ✓ Limited access to social services
- ✓ Huge geographic region



Common Legal Issues Addressed by PLA Programs

General Civil

- Housing
- Public Benefits
- Education Issues
- Immigration
- Record Expungment

Domestic

- Divorce
- Custody
- Legitimation
- Protective Orders
- Guardianships

Pre-Petition

- KYR Advocacy
- Warmlines
- CPS Investigations
- Pre-Petition Rep
- Registry Appeals

Cornerstones of Preventive Legal Advocacy

Upstream Referrals

Families are referred for services before there is a removal

Effective Community Partnerships

Rapid response & warm handoffs for any needed services



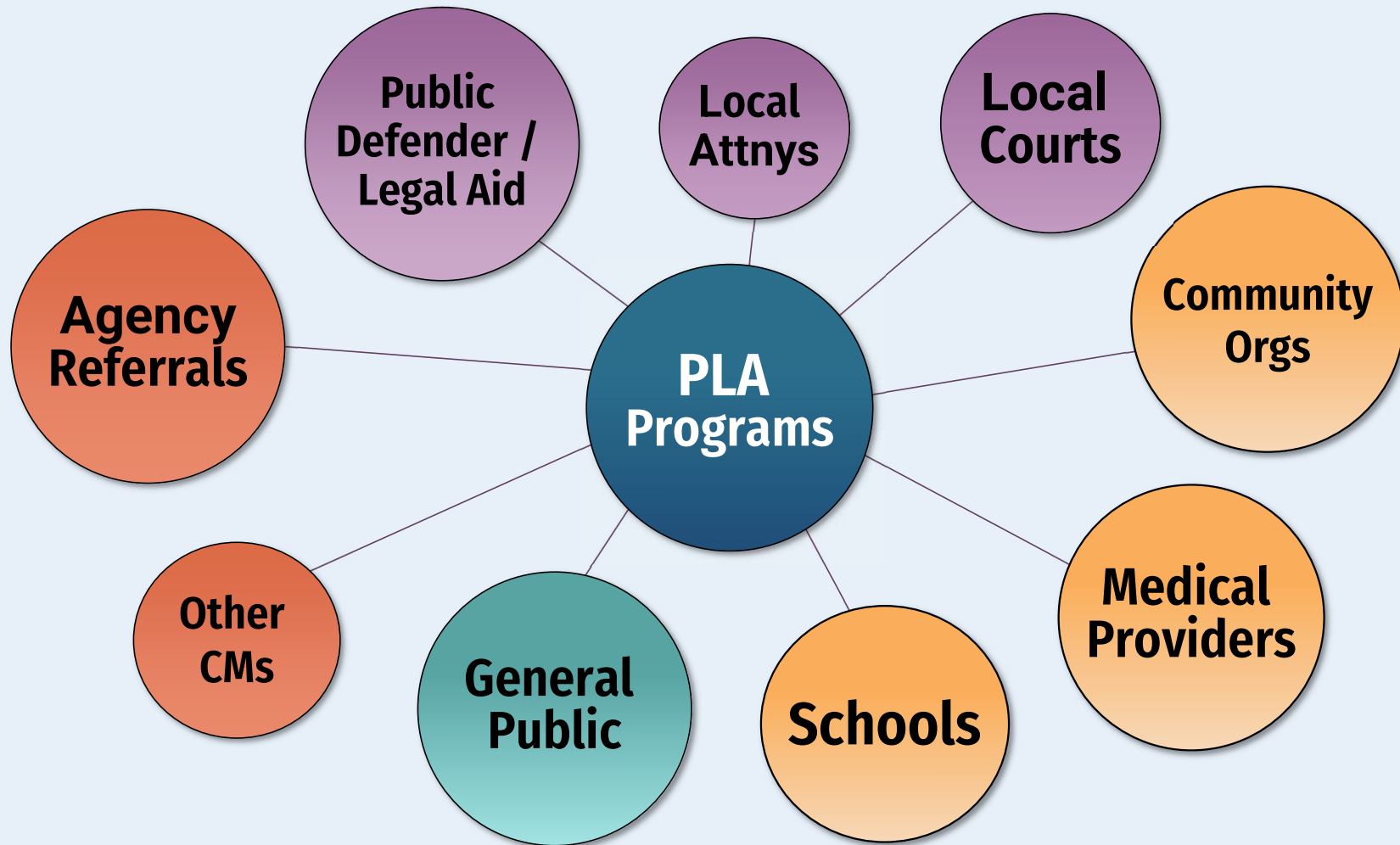
Interdisciplinary Legal Teams

Attorney
Social Worker
Parent Partner (LE)

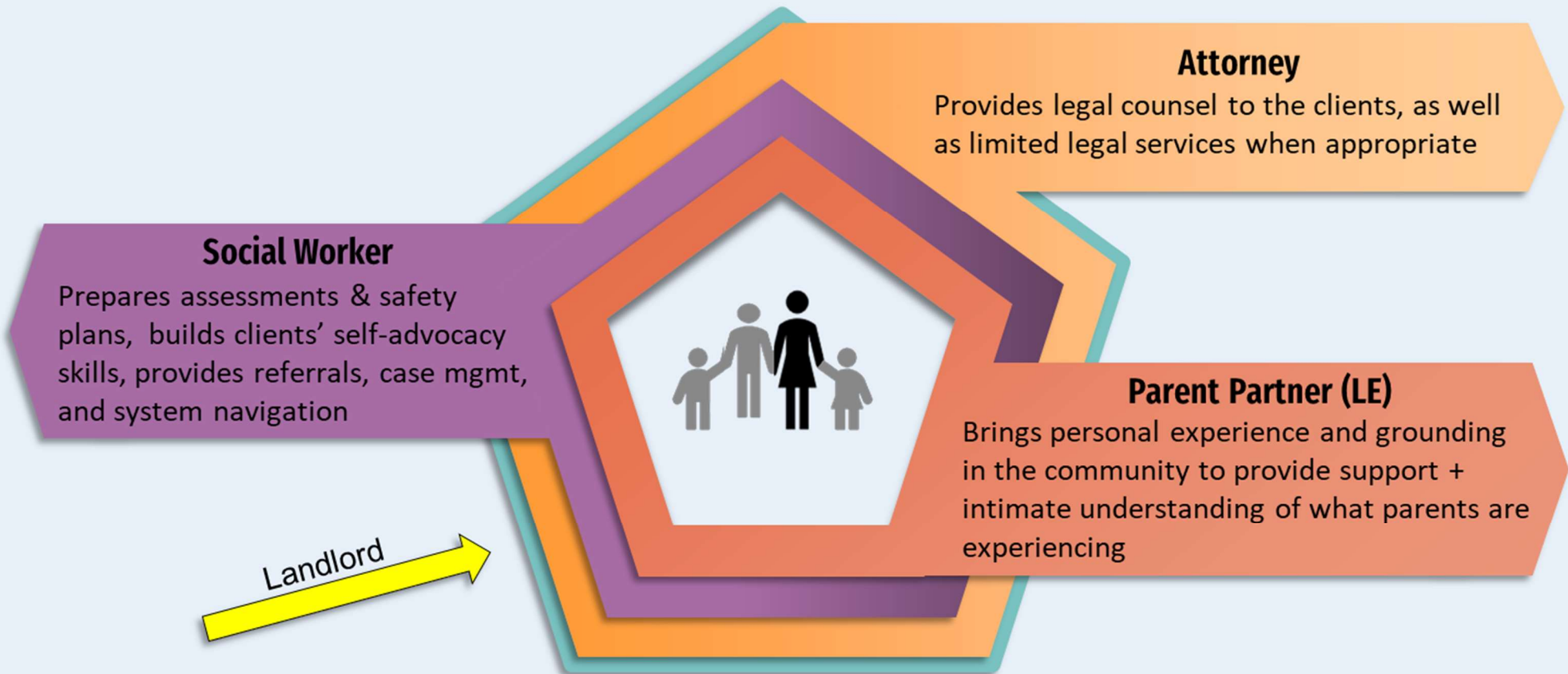
Holistic Representation

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

Upstream Referrals: Common Referral Sources



Interdisciplinary Legal Teams



Entire team works under the supervision of the attorney, generally allowing attorney-client confidentiality to extend to the rest of the team.

Holistic Legal Advocacy

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 and support her thru the course of the CPS investigation.

Effective Community Partnerships



Schools & Daycare Centers

Place based models + an opportunity to build community trust and confidence



FRC's & Community Centers

Place based models + serving families where they feel safe + opportunities for outreach



Social Service Providers

Partnering to understand the mechanisms through which services are available



Churches & Faith Based Orgs

Resources for basic needs and community driven supports + outreach opportunities

The goal is to safely 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

Much of the work centers on bringing people together

- **Supporting overwhelmed parents** – being the person parents can vent to and confide in
- **Calling and facilitating meetings** – bringing 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



Exploring the Agency's Role



Different Models of Agency Engagement

Agency Lead

- Agency funded
- Single referral source
- Screen outs
- Family members

Ex. FLASC,
Oklahoma, Kansas

Partnered

- Outside funding
- Some program design Input
- Specific referral criteria
- Safety planning integration

Ex. DAC, CLC, LSNJ

Limited/None

- Pre-petition focus
- Outside referrals
- Radical early defense
- Early notification

Ex. Mass. Pilot, CUNY
Bronx Def., + SWON

Memorandums of Understanding: Agency & Program

- Sample MOU: [Legal Services of Hudson Valley & Worcester County DSS](#)



Referral Protocols

Information Sharing

Attorney Interactions

Confidentiality

- HIPPA Releases

- General Releases

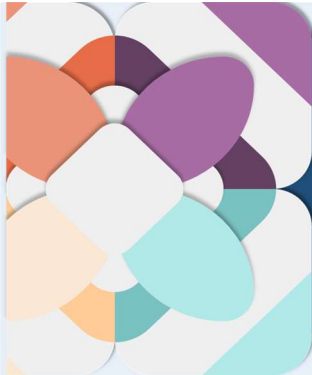
Tips for successful agency collaboration

- Ensure transparent communication channels with DFCS to prioritize child safety
- Provide training for DFCS workers to clarify eligibility criteria or conflicts of interest
- Focus on differentiating program services and building community trust via direct outreach
- Develop a policy for early referrals and limit caseworker “discretion” in referral process
- Collaborate re. methods for data collection & tracking from the outset



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

- Since 2019, FIRST Clinic in Washington state 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 their pre-petition cases
- Youth Rights & Justice in Oregon now has a Family Defense Project and they've avoided petition filing in over 75% of their cases.
- A new 2023 evaluation shows that the Parent Advocacy Program pilot launched in McLennan County, TX in the winter of 2022 has successfully avoided petition filing in all but 2 of its cases.
- Agency caseworkers interviewed as part of 2023 Dependency Advocacy Center Evaluation expressed support for DAC's system navigation approach



PLA presents a unique opportunity for systems change

- There are currently 250+ individuals participating in the PLA/PP National Cohort
- Those 250 individuals represent 144 stakeholder organizations across 41 states
- Represented in that group is 50+ unique programs providing preventive legal advocacy and pre-petition services.
- The Cohort meets virtually every month to explore topics relevant to PLA practice and program development and we average 75 attendees at those monthly sessions.

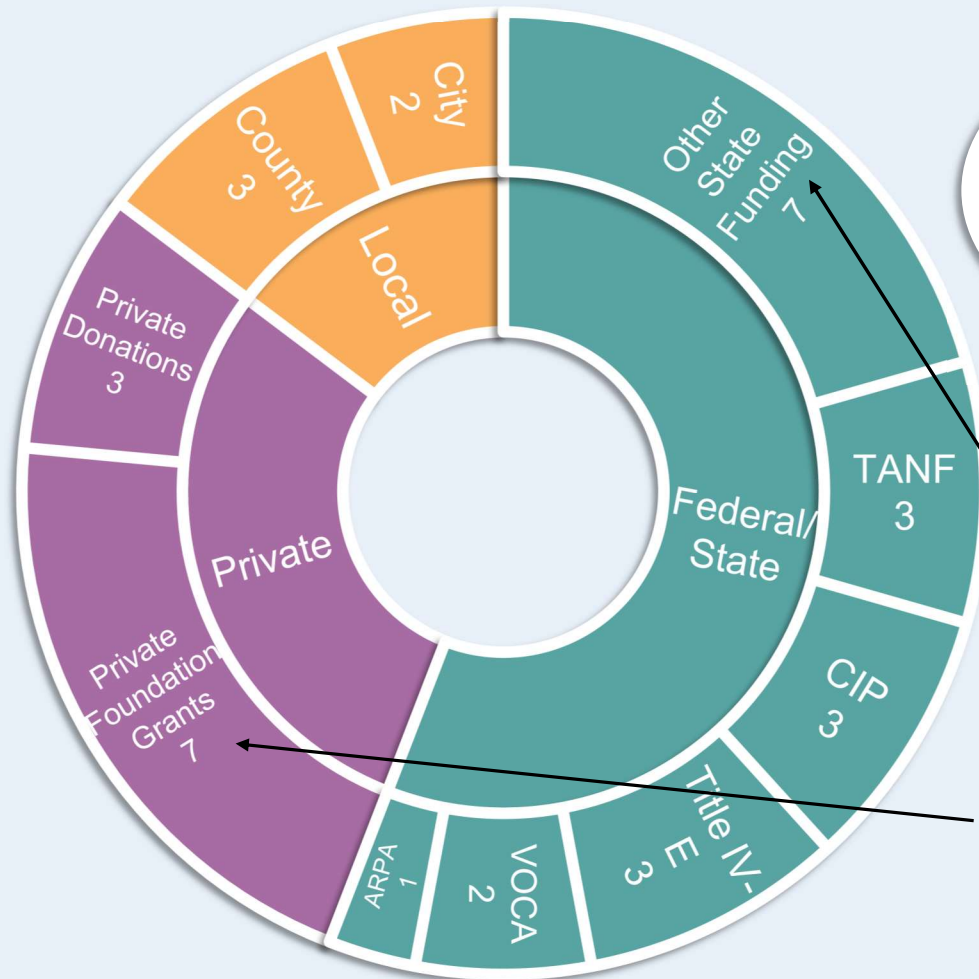
Resources & more at placohort.org - email etcook2@emory.edu to join 28

Some Lessons Learned

- **The role of the courts:** courts are unusual grantees for parent defense teams and can struggle to navigate supervision of staff, administration, personnel, and other issues. Independence is best.
- **Grant considerations:** grants should build in time to allow programs to “ramp up” before beginning intake. Team members need time to learn without the pressure to begin services.
- **Team building:** team members employed by different agencies will face challenges navigating confidentiality and understanding roles of attorneys versus social work staff, etc.
- **Training requirements:** attorneys used to dependency cases are often new to working with social workers and parents with lived experience. Training in team functioning is critical.
- **Research & data collection:** data collection is important, time consuming and expensive. To ensure program sustainability, you need a data collection plan in place from the outset.

Common Funding Sources

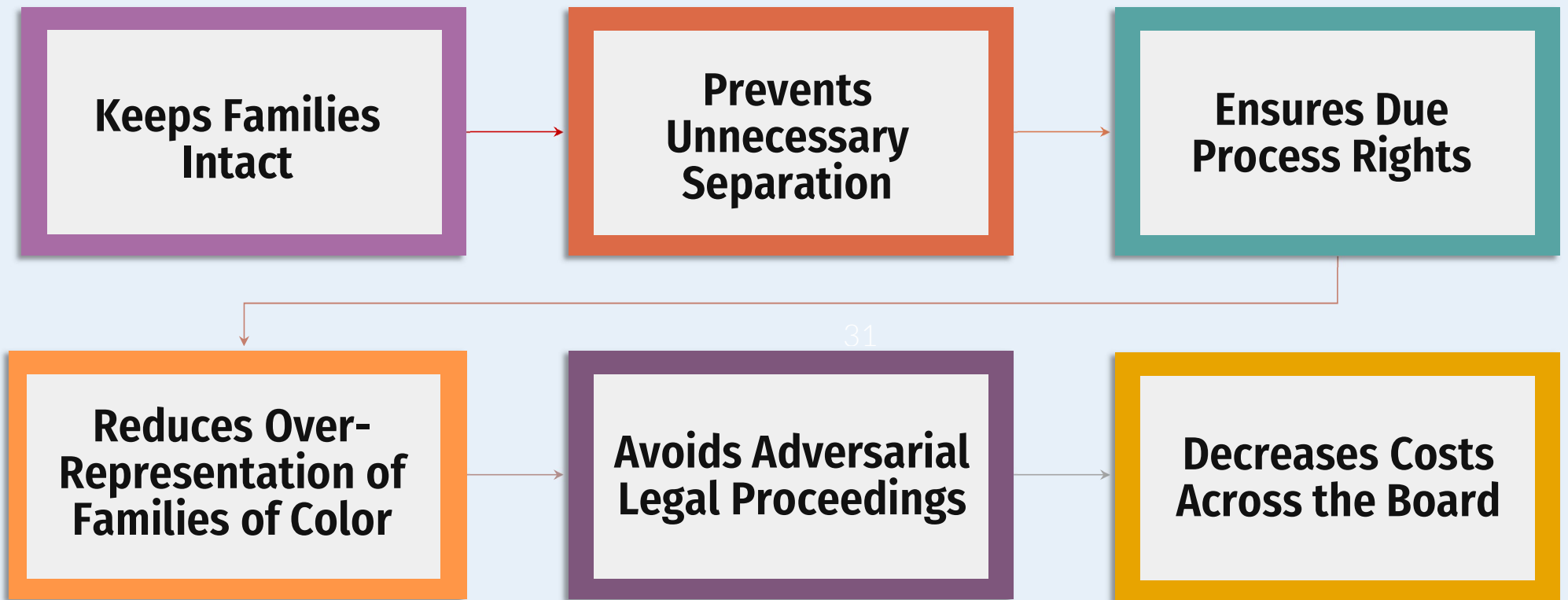
In October of 2022, we surveyed 30 existing and emerging PLA programs participating in the PLA/PP National Cohort.



70% of these programs rely on more than 1 funding source.

Based on this survey, State funding and private foundation grants remain the most common funding sources for PLA services.

The Benefits of Early Legal Advocacy:



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Discussion: Identifying the Local Need



Northern Region Child Well-Being Statistics for 2022



1,801

Total number of children living at or below federal poverty level



56%

Percent of children living in single parent homes



highest

Rate of teen births statewide



highest

Rate of child deaths statewide

[View Stats from Kids Count Data Center](#)

State Statistics - OCS Contacts

Incidence of OCS contact in Alaska is notably higher than in other states

Cumulative Incidence:

Before the age of 10 years:

- › 38% (1 in every 2.6 births) of children born in Alaska will be reported to Child Welfare
- › 31% (1 in every 3.2 births) of children born in Alaska will be screened in by Child Welfare
- › 13% (1 in every 7.7 births) of children born in Alaska will be substantiated by Child Welfare
- › 7% (1 in every 14.3 births) of children born in Alaska will be removed by Child Welfare

[View Summary of Findings ALCAN Link Project](#)

Protective Service Reports – May 2024

Protective Service Reports Screened during May 2024

- › 1,828 Protective Service Reports were screened,
- › 542 Protective Service Reports were screened in (30%)
- › 1,286 Protective Service Reports were screened out

Approx. 75% of Reports were Screened out

Table of Protective Service Reports Screened, by OCS Region

Region	Reports Screened	Reports Screened In	Reports Screened Out
Anchorage	598	174	424
Northern	393	99	294
Southcentral	436	122	314
Southeast	206	53	153
Western	195	94	101

[View OCS Statistical Information webpage](#)

Initial Assessments – May 2024

Initial Assessments Completed during May 2024

- › 682 Initial Assessments were completed,
- › 147 Initial Assessments were Substantiated (22%),
- › 535 Initial Assessments were Not Substantiated (includes Closed without a Finding).

Approx. 80% of screen-in reports were unsub. or closed w/o finding

Table of Initial Assessments Completed, by OCS Region

Region	Completed	Substantiated	Not Substantiated
Anchorage	199	38	161
Northern	158	31	127
Southcentral	179	45	134
Southeast	87	18	69
Western	59	15	44

[View OCS Statistical Information webpage](#)

Reports by Allegation Type – May 2024

131	Reporting Period	Mag2024
132	Neglect	39.7%
133	ARO Neglect	38.4%
134	NRO Neglect	30.8%
135	SCRO Neglect	38.0%
136	SERO Neglect	29.9%
137	WRO Neglect	64.7%
138	Mental Injury	52.9%
139	ARO Mental Injury	49.4%
140	NRO Mental Injury	53.7%
141	SCRO Mental Injury	51.8%
142	SERO Mental Injury	43.1%
143	WRO Mental Injury	68.6%
144	Physical Abuse	41.8%
145	ARO Physical Abuse	43.3%
146	NRO Physical Abuse	38.8%
147	SCRO Physical Abuse	42.2%
148	SERO Physical Abuse	42.6%
149	WRO Physical Abuse	38.6%
150	Sexual Abuse	19.6%
151	ARO Sexual Abuse	22.2%
152	NRO Sexual Abuse	19.5%
153	SCRO Sexual Abuse	23.2%
154	SERO Sexual Abuse	13.5%
155	WRO Sexual Abuse	11.1%
156	All Alleged Victims	37.1%

Looking at reports for the Northern Region:

Approx. 30% involved allegations of Neglect

Approx. 54% involved allegations of Mental Injury

Approx. 40% involved allegations of Physical Abuse

Approx. 20% involved allegations of Sexual Abuse

[Link to OCS statistical information most recent 12 mos](#)

Substantiated by Allegation Type – May 2024

Statewide, approx. 40% of substantiations involved Neglect & Mental Injury

80	Reporting Period	▼	May2024	▼
81	Neglect		21.6%	
82	Mental Injury		20.0%	
83	Physical Abuse		21.3%	
84	Sexual Abuse		15.4%	
85	All Alleged Victims		21.2%	

[Link to OCS statistical information most recent 12 mos](#)

Children entering care FY 2022 - statewide

Circumstances Associated with Child's Removal	Percent	Number
Neglect	77%	888
Alcohol Abuse (Parent)	40%	460
Drug Abuse (Parent)	39%	449
Physical Abuse	20%	228
Abandonment	10%	114
Sexual Abuse	9%	109
Parent Incarceration	8%	92
Housing	7%	83
Caretaker Inability To Cope	4%	50
Parent Death	2%	20
Child Behavior Problem	2%	18
Alcohol Abuse (Child)	1%	17
Drug Abuse (Child)	1%	10
Child Disability	1%	7
Relinquishment	0%	1

NOTE: These categories are not mutually exclusive, so percentages will total more than 100% and counts will be more than the total number of entries.

← Broadly grouped under mental injury/neglect in substantiation type

- AFCAR data tells us general neglect and substance abuse are driving the vast majority of entries into foster care
- AK does have higher than average rates of physical & sexual abuse

[Link to 2022 AFCAR Report](#)

Out of Home Placements – May 2024 - statewide

As of 2021, 34.3% of the child population in the Northern Regional Office of Alaska was Alaska Native or American Indian.

Children in Out-of-home care during May 2024

Please note that due to administrative processing, there may be a significant lag for entry of discharge data into ORCA, which may affect reporting accuracy for recent months.

- › 2,596 Children were in Out-of-home care during the month; of these children 1,781 were Alaskan Native/American Indian (69%)
- › 59 children were removed from their home, 37 of these were Alaskan Native/American Indian (63%),
- › 72 children were discharged from Out-of-Home care; 55 of these were Alaskan Native/American Indian (76%)

Ongoing pervasive over-representation of AN/AI children

[View OCS Statistical Information webpage](#)

Out of Home Placements – May 2024

As of May 2024, total of 507 children from this region were currently living outside of their home.

Table of Children Out of Home, by OCS Region

Region	Out of Home	Removed from Home	Discharged from OCS Care
Anchorage	969	32	26
Northern	507	2	17
Southcentral	639	8	16
Southeast	167	4	6
Western	314	13	7

[View OCS Statistical Information webpage](#)

National Overview – Time to Adjudication

Days to Adjudication	Number of States
10	4
14	1
15	2
21	1
30	8
35	1
45	3
60	13
63	1
75	1
90	5
120	4
Earliest possible	8

In AK, children are in care 120+ days before the state is required to show that it's more likely than not that the child is in need of aid.

*longest time frame

*lowest burden of proof

Time is not necessarily the family's friend here.

Things to consider:

- 57% turnover rate among caseworkers as of 2022
- Higher than average rates of 3+ placement changes
- Higher than average rates of children spending 24+ mos in care

[Link to CIP Data Dashboard – Time to Adjudication](#)



Discussion jamboard

[CLICK HERE](#)

OR



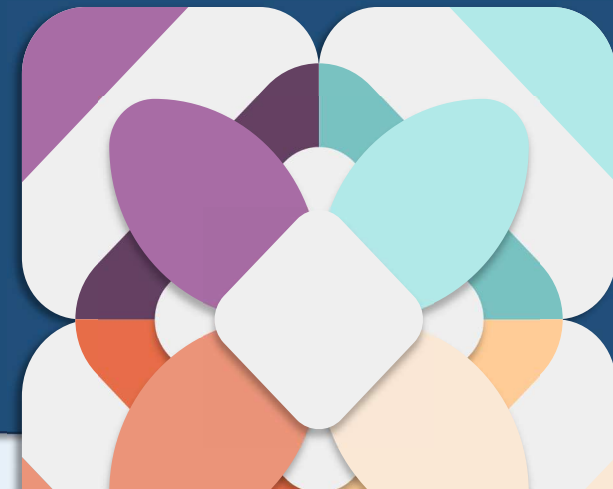
What are the biggest challenges facing families in your community?

Locally, what do you all see as the most common risk factors for instability/system involvement?

How frequently are you seeing what you consider to be preventable removals?

What's causing those otherwise preventable removals?

1/6





Discussion: Opportunities for Tribal Involvement

What are your primary goals & objectives in developing this new program?

Examples:

- Improve the efficacy of existing safety planning and diversion programs
- Ensure due process rights and protect against hidden foster care
- Fill gaps in existing social services and supports
- Address over-representation
- Build community resilience and reduce over-reliance on the child welfare system

Do your goals & objectives address an identified need?

2/5



Given the need & goals/objectives, what's your target population?

What services do you hope to provide?

How can you reach these families before they get to court?

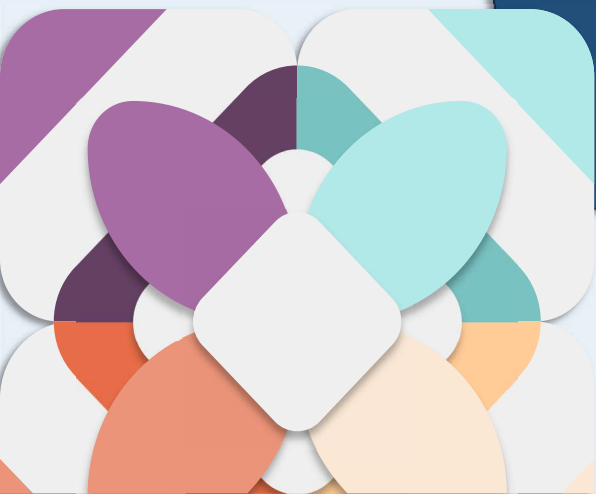
Which providers/community partners would be good contacts for referrals?

What's hindering you all from shifting legal services further upstream?

What are the biggest challenges/concerns in developing this program?

Discussion: Developing an Action Plan

What's next?



Items for Consideration

Any pending deadlines we need to be aware of? (grants, budgets, etc)

What preliminary questions do we need answered?

Who's going to take the lead? Form committee?

When do you meet next? Set a schedule for ongoing mtgs?

What role is the agency going to play?

5/5

Program Development Worksheet

Interview Existing Programs

**Consider engaging lived experience
groups**



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Closing Remarks

