



KEY STUDIES AND DATA ABOUT HOW LEGAL AID HELPS KEEP FAMILIES TOGETHER AND OUT OF THE CHILD WELFARE SYSTEM

On any given day, there are approximately 437,000 children in foster care.¹ After spending time in foster care, children often experience emotional, social, and behavioral issues.² When legal aid helps address families' unresolved legal problems (such as housing insecurity, barriers to employment, challenges accessing public benefits, and family law issues), it can prevent children from entering the child welfare system rather than redressing situations once removal from the home or foster/kinship care placement has taken place (Sankaran, 2014). When children do enter court-supervised out-of-home care, studies show providing legal representation to parents resulted in less time spent in foster care (Thornton & Gwin, 2012), faster rates to adoption and guardianship (Courtney & Hook, 2012), and increased likelihood of achieving permanency (Wood et al., 2016). Similarly, compared to cases where parents were represented by solo practitioners, wraparound services from interdisciplinary law offices resulted in shorter time spent in foster care, faster reunifications and time to guardianship, increase in the use of kin placement, and no reduction in children's safety in the four years following case filing (Gerber et al., 2019).

Pages 1-2 of this research brief provides some research highlights; pages 3-5 a narrative overview; pages 6-7 feature federal resources; pages 8-9 other helpful resources; and pages 12-19 summaries of the curated studies. All endnotes (pages 10-11) are to sources not included in our summaries section.

RESEARCH HIGHLIGHTS:

- A 2017 U.S. Department of Health & Human Services Administration for Children and Families (HHS ACF) Information Memorandum about legal representation for children and parents concludes: "The Children's Bureau (CB) strongly encourages all child welfare agencies and jurisdictions (including, state and county courts, administrative offices of the court, and Court Improvement Programs) to work together to ensure that high quality legal representation is provided to all parties in all stages of child welfare proceedings" (HHS ACF, 2017).
- In a study comparing the effectiveness of interdisciplinary law office (ILO) representation to that of solo practitioner representation, researchers found that "(1) when children do enter foster care, ILO representation decreases their stays in foster care by nearly four months (118 days) on average through faster reunification and guardianship when compared to a solo practitioner attorney, (2) that ILO representation did not impact child safety – defined as the likelihood of a subsequent substantiated report of child maltreatment – when compared to solo attorney representation, and (3) that ILO representation did not impact the prevalence of foster care entry, as compared to solo attorney representation" (Gerber et al., 2019).
- "A lack of legal representation is placing parents at a disadvantage with regard to having their children returned to them. This may also result in children being placed outside of the home for periods of time that are longer than necessary" (Wood et al., 2016).
- "A lawyer may be able to prevent a child from entering foster care in the first instance. Children may unnecessarily enter foster care because their parents are unable to resolve legal issues that affect their safety and well-being in their home" (Sankaran, 2014).
- "Mothers were present in court more often across the life of the case when they had an attorney versus when they had no attorney. In Rankin County [one of the evaluation sites], fathers were also present more often across the life of the case when they had legal representation" (National Council of Juvenile and Family Court Judges, 2013).
- "Enhanced parental representation nearly doubled the speed to adoption and doubled the speed to legal guardianship" (Courtney & Hook, 2012).

- "Improving legal representation and support for parents in child welfare proceedings results in better outcomes for children and families and can lead to substantial savings of government funds" (Thornton & Gwin, 2012).
- "First, having mothers present at the preliminary protective, adjudication, disposition, and first review hearings increases children's chances of being reunified with their families. Second, assigning mothers legal counsel at or before one of these four early decision-making hearings will also increase the chances of reunification" (Wood & Russell, 2011).
- "Implementation of the OPD Parents Representation Program in 15 counties resulted in 10.4% more reunifications in filed cases (equaling a 39% rate increase) ... [and] 10.6% more case resolutions within about 2.5 years" (Washington State Office of Public Defense, 2010).
- "In general, children represented by [Foster Children's Project] were found to have a significantly higher rate of exit to permanency than comparison children (i.e., children not served by FCP because of a legal conflict). Specifically, in the analyses based on DCF administrative data and court record reviews, respectively, FCP children exited to permanency at rates 1.38 and 1.59 times higher than comparison children. Most of this difference, however, appears to be a function of much higher rates of adoption and long-term custody among FCP children, with FCP children experiencing these exits at rates between 1.73 and 3.53 times as great as comparison children" (Zinn & Slowriver, 2008).

NARRATIVE OVERVIEW RE: **KEEPING FAMILIES TOGETHER**

The U.S. Department of Health & Human Services, Administration for Children and Families (HHS ACF) reports there are approximately 437,000 children in foster care on any day in the U.S.³ In 2018, approximately 687,000 children, whose ages averaged 8.3 years old, spent some time in foster care. While the goal of foster care in the majority of child welfare cases is to reunify the child with their parent(s) or guardian,⁴ adoption is the primary case plan goal in approximately 27 percent of cases.⁵ HHS ACF estimates that approximately 125,000 children were awaiting adoption in FY 2018. About half (71,254) of these children's parents' parental rights had been terminated and the children awaited adoption for an average of 17.4 months.

As Sankaran, Church, & Mitchell (2019) state, "removing children from their parents is child welfare's most drastic intervention."⁶ Children who spend time in foster care often experience more educational, behavioral, and psychological challenges than their peers. Researchers have also identified a higher likelihood of experiencing learning disabilities, developmental delays, asthma, and obesity among children who have been in foster care compared to those who have not.⁷ One study found that children who had scored within a normal range on behavioral, social, and emotional questionnaires upon entering foster care often scored worse after leaving.⁸ Another study found that children placed in foster care are more likely to experience "emotional and behavioral deficits, brain and neurobiological impairment, and poor social relationships with parents and peers."⁹

Children who spend time in group and residential care programs are 2.5 times more likely to become involved in the criminal justice system than those placed in foster care with a family.¹⁰ These statistics are particularly salient for LGBT youth, who are overrepresented in the foster care system. LGBT youth are more likely to be placed in a group home, experience frequent moves, and experience greater physical violence at foster placements than non-LGBT youth.¹¹ Further, these youth may not have adequate legal protections in their state: only 14 states currently have foster care non-discrimination laws or policies inclusive of sexual orientation and gender identity.¹²

Several studies have identified that those on the margin of foster care placement have better outcomes when they remain at home compared to when they are placed into foster care.¹³ When families come into contact with the child welfare system, in-home services can resolve underlying instability and prevent a child's removal from the home altogether.¹⁴ When children must enter court-supervised out-of-home care, however, reunification is often the primary goal in order to return a child to stability and mitigate the poor outcomes associated with long term out-of-home care.¹⁵

Studies show that children placed into kinship care arrangements also experience increased stability (demonstrated by fewer home placement and school changes) higher levels of permanency, greater safety, better behavioral and mental health outcomes, more positive feelings about placements, and increased likelihood of living with or staying connected to siblings compared to those placed in foster care with non-relatives.¹⁶ Whereas several studies have observed higher rates of change of racial self-identification among youths in foster care, kinship care results in greater preservation of cultural identity and community connections according to studies of American Indian/Alaska Native communities.¹⁷ However, children and caregivers in kinship care placements often struggle to receive social welfare benefits like SNAP, Medicaid, and TANF, attain child and housing assistance, and access mental health services.¹⁸

Children who are adopted from foster care fare better than those who age out of the system. A study using data from the National Adoption Survey found that children who were adopted were less likely to rely on public resources, such as state-subsidized health care, TANF, SNAP or cash welfare payments,

and subsidized school lunches.¹⁹ They were also four times less likely to be uninsured, and approximately three times as likely to use private health insurance rather than having publicly-subsidized healthcare. Further, adopted children were more likely to be living with a two-parent family, twice as likely to have at least one parent who is a college graduate, three times as likely to live in a financially secure house, and more likely to live in a safe neighborhood. These factors “have been found to be more associated with more favorable outcomes for children,” such as being less likely to be depressed, engage in aggressive behavior, or to repeat a grade.²⁰

Reduction of government expenditure goes beyond the savings on public benefits documented by the National Adoption Survey. In a study published in January 2019, Alia Innovations and Ecotone Analytics, sponsored by Moxie Foundation, conducted a return on investment analysis of the monetary cost of administering children in foster care.²¹ They found that the average total cost per child to the foster care system in 2018 was approximately \$32,711.²² They then compared the hypothetical cost of a child who spends one year in foster care, reunified in 12 months, experienced no recurrence of maltreatment, and achieved no reentry to the welfare system (Scenario 1) to a child who spent four years in foster care, did not achieve permanency (“aged out”), reentered foster care, and were served by two caseworkers over their time in care (Scenario 2).²³ Alia calculated a social return on interest (SROI, or social cost per \$1 invested) of -\$9.55 for Scenario 2, compared to -\$3.64 for Scenario 1.²⁴ Over the lifetime, Scenario 2 amounts to an individual and societal loss of \$627,501, compared to \$119,069 in Scenario 1 for each child after exiting foster care.²⁵ Alia suggests that the government can reduce public spending and improve long term outcomes for children by minimizing a child’s time to permanency, the number of placements while in care, and caseworker caseload..

DATA AND STUDIES SHOW LEGAL AID HELPS:

When legal aid is used to address families’ unresolved legal problems (such as housing insecurity, barriers to employment, access to public benefits, and family law issues), it can prevent children from entering the child welfare system rather than redressing situations once removal from the home or foster/kinship care placement has taken place (Sankaran, 2014). For example, legal representation at an eviction hearing or provision of self-help materials can prevent a family from being evicted, the child subsequently missing school, and truancy charges being filed or Child Protective Services from being contacted. As Sankaran writes, children “may unnecessarily enter foster care because their parents are unable to resolve legal issues that affect their safety and well-being in their home” (p. 1037).

By preventing and reducing the time spent in foster care, legal aid services save state and federal government money. In Michigan, the Detroit Center for Family Advocacy (CFA) conservatively estimated the average annual cost for a child to be in foster care to be approximately \$47,433.²⁶ CFA and Sankaran (2014) proposed that if entry into the child welfare had been prevented for a quarter of the 110 children served by CFA, the state of Michigan would have saved around \$1.3 million. These calculations do not include additional cost savings which would result from avoiding lifelong negative social outcomes of foster care or reducing length of stay.

Thornton & Gwin (2012) presented three case studies to demonstrate how legal representation for parents improves child outcomes and saves the state money. They highlighted Courtney & Hook’s 2012 study, which found that legal representation increased reunification by 11 percent, adoption by 104 percent, and the rate of guardianship by 83 percent in Washington. Thornton & Gwin found that these outcomes translated into monetary savings for the state because children spent less time in foster care – an 11 percent improvement in reunification translated to a reduction in the time a child spent in foster care by 27 days.

Safe & Sound, a children's advocacy organization, published a March 2019 study on the economic impacts neglect and maltreatment have on children in California.²⁷ The researchers found that survivors of child neglect and maltreatment endure individual lifetime costs of approximately \$268,000 because of the impact of child abuse on lifetime productivity, educational attainment, health, and involvement in the criminal justice system. Safe & Sound also discussed protective factors associated with lower incidence of maltreatment in vulnerable families, including access to support services which address basic needs like food, healthcare, and housing. The researchers also identified family and community risk factors which may increase the likelihood of maltreatment, including lack of affordable housing, homelessness, substance abuse, and natural disasters. Legal aid can help reduce the potency of these risk factors by helping families access services to meet basic needs and stabilize families experiencing homelessness or instability following a natural disaster.

Legal aid can improve families' lives. In its 2016 report to the President, the White House Legal Aid Interagency Roundtable identified some of the legal needs of families and ways in which legal aid can assist parents and children in foster care, including ensuring individual safety in instances of abuse and neglect, helping children stay in school when disciplinary and other problems threaten suspension or expulsion, and modifying child support orders and payments through representation and self-help centers.²⁸ A Roundtable case study added that legal aid can also help stabilize families by helping them access public benefits and social services like TANF, SNAP, and school lunches; help foster youth stay in contact with siblings; and obtain legal identification.²⁹

Studies have shown that when parents have access to legal representation, they are more likely to be involved in ensuing child welfare hearings, and children experience better case outcomes. Researchers at the National Council of Juvenile and Family Court Judges conducted a program evaluation for a parent representation pilot program in Travis County, Texas and found that when counsel was appointed earlier (less than ten days from the initial hearing), they were more likely to be present at the hearings and children were more likely to obtain permanent placements (Wood et al., 2016). The National Council of Juvenile and Family Court Judges (2013) and Wood & Russell (2011) found similar outcomes: when parents had legal representation, they were more likely to be present at child welfare hearings.

When children do enter court-supervised, out-of-home care, parents who have legal representation have higher rates of reunification and legal guardianship. Courtney & Hook (2012) studied the outcomes of 12,104 children who entered court-supervised care and found that the children of parents who had representation exited foster care at a rate 11 percent higher than those of parents who did not have representation. In Washington State, representation almost doubled the speed to adoption and legal guardianship. Another study found that when parents were represented, reunification increased by 37 percent and the rate of case resolution increased by 18.3 percent over 2.5 years (Washington State Office of Public Defense, 2010). Further, Gerber et al. (2019) found that when parents received services from interdisciplinary law offices (ILO), including social work staff, parent advocates, and salaried attorneys, children spent an average of 118 fewer days in foster care during the four years following the abuse or neglect case filing than those whose parents were representation by solo practitioners. Children of parents with ILO representation also achieved reunification 43 percent more often, guardianship 106 percent more often, and permanency 34 percent more often within one year of entering out-of-home care.

Legal aid in the form of kinship navigation services can also support grandparents or other family members acting as caregivers for a relative's child. Kinship navigation legal services can help address the needs of children by helping establish the appropriate level of legal authority to enable caregivers to attend school, make decisions about the child's care, and get health care and provide consent for needed treatment.

FEATURED FEDERAL RESOURCES:

U.S. Department of Health & Human Services, Administration for Children & Families (HHS ACF), Children's Bureau, *Civil Legal Advocacy to Promote Child and Family Well-being, Address the Social Determinants of Health, and Enhance Community Resilience*

On January 14, 2021 HHS ACF released an Information Memorandum (IM) making the case for the importance of legal aid for families. The IM's purpose is to "highlight the importance of civil legal advocacy in advancing child and family well-being; address the social determinants of health; enhancing community resiliency; and to strongly encourage state, territorial, and tribal human services entities to work together to support access to civil legal advocacy." It cites studies on the benefits of civil legal advocacy in the child welfare context and successful programs and models in Appendix A including Legal Aid of West Virginia, Legal Aid Services of Oklahoma, Iowa Legal Aid, Legal Services of New Jersey, Tennessee Alliance for Legal Services, and others.

Highlights:

- "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." (p. 3)
- "Civil legal advocacy can be preventive when it works to address issues that could lead to family separation and the placement of children in foster care. The human and financial costs of prolonged foster care placement can be significant. Researchers have identified a higher likelihood of experiencing learning disabilities, developmental delays, and adverse health impacts including asthma and obesity among children who have been in foster care compared to those who have not." (p. 5)
- "When preventive services fail, or if true emergency situations arise and necessitate a child's removal from the home, civil legal services can help speed reunification by eliminating barriers to parents participating in or focusing on the primary capacities needed to safely parent." (p. 6)
- "The need for and benefit of civil legal advocacy is recognized across multiple federal agencies and programs---many of which are health and well-being oriented...That each of these agencies administer funding sources that may be used to support states and tribes to fund civil legal advocacy, demonstrates a broad and unified understanding that civil legal issues directly impact health, well-being, and stability in the lives of children, families, and individuals." (p. 7)
- "...[C]ivil legal advocacy is a critical strategy to help ensure federally administered programs are successful. We strongly encourage all human services entities to consider and explore the models, partnerships, and approaches included in this memorandum and examine current federal, state, local, and philanthropic funding streams and sources to support civil legal advocacy to help achieve positive outcomes for children and families." (p. 15)

Access this resource at: Children's Bureau, Administration for Children and Families, U.S. Department of Health & Human Services, *Civil Legal Advocacy to Promote Child and Family Well-being, Address the Social Determinants of Health, and Enhance Community Resilience* (2021, January), available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/im2102.pdf>

U.S. Department of Health & Human Services, Administration for Children & Families (HHS ACF), Children's Bureau, *High Quality Legal Representation for All Parties in Child Welfare Proceedings*

This HHS ACF Information Memorandum, published in January 2017, emphasizes the importance of ensuring that parents, children and youth, and child welfare agencies receive high quality legal representation at all stages of welfare proceedings to ensure a well-functioning child welfare system. It highlights studies and reports demonstrating the importance of legal representation. The memo explains:

“Numerous studies and reports point to the importance of competent legal representation for parents, children, and youth in ensuring that salient information is conveyed to the court, parties’ legal rights are protected and that the wishes of parties are effectively voiced. There is evidence to support that legal representation for children, parents and youth contributes to or is associated with:

- Increases in party perceptions of fairness;
- Increases in party engagement in case planning, services and court hearings;
- More personally tailored and specific case plans and services;
- Increases in visitation and parenting time;
- Expedited permanency; and
- Cost savings to state government due to reductions of time children and youth spend in care” (p. 2)

Highlights:

- “The purpose of this information memorandum is to emphasize the importance of high-quality legal representation in helping ensure a well-functioning child welfare system. This memorandum also highlights important research and identifies best practices and strategies to promote and sustain high quality legal representation for all parents, children and youth, and child welfare agencies in all stages of child welfare proceedings. The Children’s Bureau (CB) strongly encourages all child welfare agencies and jurisdictions (including, state and county courts, administrative offices of the court, and Court Improvement Programs) to work together to ensure that high quality legal representation is provided to all parties in all stages of child welfare proceedings” (p. 1).
- “Providing high quality legal representation to all parties at all stages of dependency proceedings is crucial to realizing these basic tenets of fairness and due process under the law. Moreover, research shows that legal representation for all parties in child welfare proceedings is clearly linked to increased party engagement, improved case planning, expedited permanency and cost savings to state government. CB strongly encourages all jurisdictions to work together to ensure all parties receive high quality legal representation at all stages of dependency proceedings” (p. 14).
- “Early appointment of counsel allows attorneys for parents and children to be involved from the very beginning of a case. Attorneys can contest removals, identify fit and willing relatives to serve as respite care providers, advocate for safety plans and identify resources, all of which may help prevent unnecessary removal and placement. Where removal is necessary attorneys for parents and children can be actively involved in case planning, helping to craft solutions that address their client’s needs and concerns and expediting reunification or other permanency goals” (p. 6).
- “Both parents’ attorneys and children’s attorneys can be helpful in addressing collateral legal issues that may leave families vulnerable, such as housing, employment, immigration, domestic violence, healthcare and public benefits issues – one or any combination of which may contribute to bringing families into contact with the child welfare system. Such efforts may help prevent children from entering foster care or help children return home sooner” (p. 7).

Access this resource at: Children’s Bureau, Administration for Children and Families, U.S. Department of Health & Human Services, High Quality Legal Representation for All Parties in Child Welfare Proceedings (2017, January), available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/im1702.pdf>

U.S. Department of Justice, Office for Victims of Crime *Vision 21 Report*

Vision 21: Transforming Victim Services (TVS) outlines a comprehensive and systematic approach to change how we meet victims' needs. TVS grew out of a series of meetings that were sponsored by OVC. The discussion and research focused on the role of victim assistance, how to better serve victims, addressing issues in the field, and identify emerging issues in the field. This report dedicates Chapter 2 to meeting the holistic legal needs of crime victims.

In Chapter 3, *Extending the Vision: Reaching All Victims of Crime*, the report explains that children and youth who are victimized are largely underserved. TVS emphasizes that, in order to meet the needs of all crime victims and their families/caregivers, the systems serving this group must be more efficient and less fragmented. As the report states, "Frequently abused or neglected as younger children, many have become runaway or 'throwaway' youth, making them vulnerable to sexual exploitation through street prostitution and online or other escort services. Many of these children are also trapped in the revolving door of child welfare/foster care systems, juvenile justice systems, and other systems that do not recognize and address their victimization. All too often, they are viewed as juvenile offenders rather than victims in desperate need of safety, support, and trauma-informed care" (p. 20).

Highlights:

- "A staggering 42 percent of victims never report serious violent crime to law enforcement. We need to know why. Stakeholders described a maze of overlapping, complex legal issues facing victims; for example, a single victimization can involve immigration status, civil legal assistance, administrative law remedies, and rights enforcement" (p. vi).
- "Victims of crime all too often face a perplexing maze of coexisting, overlapping, and complex legal issues after their victimization. They must navigate multiple systems (i.e., the criminal, civil, and administrative justice systems), each with its own requirements and processes. One case of victimization may produce myriad legal issues for the victim, including orders of protection, victims' rights enforcement, compensation, employment, housing, home foreclosure, spousal support, and child custody, visitation, and dependency" (p. 12).
- "Serving crime victims in indigenous communities presents a special challenge to all members of the victim service community, particularly providers of legal services. American Indian and Alaska Native populations suffer significantly higher crime rates than the rest of the Nation—a fact that underscores the urgency of finding ways to deliver services more successfully or, in the case of legal assistance, to deliver services at all" (p. 12).
- "Compounding the lack of legal representation for crime victims is the absence of a single point of entry through which victims of all types of crime may access services to address the wide range of legal needs they may have as the result of their victimization" (p. 14).
- "A coordinated, collaborative, and holistic legal response has the potential to serve victims far better through an inherent capacity to provide the type of legal assistance needed at any given time. A network approach would also ensure that victims are connected to community legal resources that can help them address their administrative, civil, and other legal issues" (p. 14).

Access this resource at: US Department of Justice, Office for Victims of Crime. *Vision 21: Transforming Victim Services* (May 2013), available at https://ovc.ncjrs.gov/vision21/pdfs/Vision21_Report.pdf

HELPFUL RESOURCES:

- The Justice in Government Project (JGP) and National Legal Aid & Defenders Association (NLADA) published a [newsletter](#) summarizing the research and resources related to how civil legal aid assists children and families involved in the child welfare system.³⁰
- JGP and NLADA published a [fact sheet](#) on how civil legal aid can help stabilize families to prevent unnecessary entry into foster care, improve odds of permanency and reunification, and expedites these outcomes. This factsheet also lists several federal and state-administered federal block grants that can support legal aid for parents and children in the child welfare system.³¹
- The [National Association of Counsel for Children](#) (NACC) offers training, webinars, and links to other resources. NACC offers the only ABA-approved certification program for attorney Child Welfare Law Specialists. NACC is a national membership association that also offers training and technical assistance, moderates a listserv for children's attorneys, and convenes an annual National Child Welfare Law Conference. They also maintain a [hub](#) of helpful Title IV-E background materials describing the recent policy clarification which allows states to use funds to pay for administrative costs of legal representation for children or parents.³²
- The American Bar Association Center on Children and the Law's National Alliance for Parent Representation [summarizes parent representation models](#) in various states to show what different jurisdictions are doing to provide high-quality representation to parents.³³ The National Alliance moderates a listserv for parents' attorneys, provides training and technical assistance, hosts a national conference for parent attorneys and another for the interdisciplinary teams providing representation for parents.
- The [Family Justice Initiative](#) (FJI) works to ensure that every child and every parent has high-quality legal representation when courts are making life changing decisions for their families. The FJI maintains a [spreadsheet](#) of research on outcomes related to parent/child representation programs. FJI has also curated a [list of resources](#) regarding the recent Title IV-E policy change including signed state agreements and an FAQ.³⁴
- Casey Family Programs published a [strategy brief](#) in February 2020 explaining how pre-petition legal representation for poverty-related issues can stabilize families and prevent children from entering foster care. The brief contains impact evaluations for pre-petition parental representation programs in Detroit, New Jersey, Oklahoma, Iowa, and Washington state.³⁵
- The [National Coalition for a Civil Right to Counsel](#) (NCCRC) has an [interactive map](#) with the latest civil right to counsel activities, the status of civil right to counsel law by type of case (child welfare, paternity, guardianship, etc.), the efforts in which the NCCRC is involved, or the states where NCCRC has a presence.³⁶
- The [National Data Archive on Child Abuse and Neglect](#) (NDACAN) provides high quality datasets, documentation, and technical support for foster care-related studies.³⁷ The ACF collects case-level information from state and tribal Title IV-E agencies on all children in foster care and those who have been adopted with Title IV-E involvement. ACF publishes the [AFCARS Report](#), which provides the most up-to-date data on foster care and adoptions.³⁸ See [FY 2018's report](#) (released October 2019).³⁹
- The National Child Abuse and Neglect Data System ([NCANDS](#)) is a voluntary data collection system that gathers information from all 50 states, the District of Columbia, and Puerto Rico about reports of child abuse and neglect.⁴⁰ The Children's Bureau publishes Child Maltreatment reports annually on data provided by the states.⁴¹ See [Child Maltreatment 2017](#) for the most recent national data about child abuse and neglect known to child protective service agencies in the US (published January 2019).⁴²

- The National Youth in Transition Database ([NYTD](#)) collects information about youth in foster care and those who have aged out of the foster care system.⁴³ To date, the Children's Bureau has published [six data briefs](#) using findings from NYTD surveys.⁴⁴
- Annie E. Casey Foundation's [KIDS COUNT](#) maintains data and statistics on educational, social, economic, and physical well-being of children on local, state, and national levels.⁴⁵
- [Child Trends](#) publishes reports and data on early childhood, education, and youth, including databanks on [foster care](#) and [child maltreatment](#).⁴⁶
- In June 2019, First Star Institute and the Children's Advocacy Institute (CAI) released the fourth edition of [A Child's Right to Counsel](#), a progress report on the effectiveness of state laws in providing legal representation to children in abuse and neglect cases.⁴⁷
- The Boston Globe and ProPublica conducted a [state-by-state investigation](#) of Child Abuse Prevention and Treatment Act (CAPTA) compliance and found that 49 states and Puerto Rico were unable to show that they follow rules mandating that children receive representation in court proceedings regarding possible mistreatment.⁴⁸
- Legal Services Corporation has collected client success stories [here](#).⁴⁹
- For more information about civil legal aid messaging, communications, and story-telling, go to the [Voices for Civil Justice](#) and [All Rise for Civil Justice](#) websites.⁵⁰
- For a more comprehensive repository of legal aid related research, go to the National Legal Aid & Defender Association's [LegalAidResearch](#) website.⁵¹
- The [Center for Victim Research](#) is continually adding to their [Research Syntheses](#) on the state of the field for multiple victimization types and their [Library](#), which includes a public collection of over 1,000 resources.
- The American Bar Association maintains a [list](#) of legal needs and impact studies for most states.⁵² Their 2011 [Access Across America report](#) compiled a state-by-state portrait of services available to assist the U.S. public in accessing civil justice.⁵³

Endnotes

- ¹ U.S. Department of Health & Human Services, Administration for Children and Families, *The AFCARS Report* (2019), available at <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport26.pdf>
- ² L. D. Leve et al., *Practitioner Review: Children in Foster Care—Vulnerabilities and Evidence-Based Interventions that Promote Resilience Processes*, 53 J. of Child Psych. and Psychiatry 1197-1211 (2012)
- ³ *Supra* note 1.
- ⁴ Children's Bureau, *Reunification: Bringing Your Children Home From Foster Care* (2016), available at <https://www.childwelfare.gov/pubPDFs/reunification.pdf>
- ⁵ *Supra* note 1.
- ⁶ Vivek Sankaran, Christopher Church, & Monique Mitchell, *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, 102 Marquette Law Review 1163-1194 (2019), available at <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=3055&context=articles>; see also Shanta Trivedi, *The Harm of Child Removal*, 43 New York University Review of Law & Social Change 523-580 (2019), available at https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=2087&context=all_fac
- ⁷ Kristin Turney and Christopher Wildeman, *Mental and Physical Health of Children in Foster Care* (2016), Pediatrics 138(5), available, available at <https://pediatrics.aappublications.org/content/138/5/e20161118>
- ⁸ Rae R. Newton et al., *Children and Youth in Foster Care: Disentangling the Relationship between Problem Behaviors and Number of Placements* (2000), 24 Child Abuse & Neglect 1363.
- ⁹ *Supra* note 2 at 1197.
- ¹⁰ Joseph P. Ryan et al., *Juvenile Delinquency in Child Welfare: Investigating Group Home Effects*, 30 Children and Youth Serv. Rev. 1088 (2008).
- ¹¹ Human Rights Campaign, *LGBTQ Youth in the Foster Care System* (n.d.), available at https://assets2.hrc.org/files/assets/resources/HRC-YouthFosterCare-IssueBrief-FINAL.pdf?_ga=2.114017601.710771807.1538403717-1969452124.1538403717
- ¹² *Id.* at 3. See also the American Bar Association's and the National Association of Counsel for Children's December 2019 letters in response to the recent federal proposal to modify Final Rule 81 FR 89393, § 75.300 (c)-(d), which prohibited discrimination on factors of age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation, https://www.americanbar.org/content/dam/aba/administrative/child_law/children_fc_discrimination_comments.pdf and https://cdn.ymaws.com/www.naccchildlaw.org/resource/resmgr/policy/2019/2019_nacc_final_hhs_letter.pdf
- ¹³ See Joseph J. Doyle, Jr., *Causal Effects of Foster Care: An Instrumental-Variables Approach* 35(7) Children and Youth Services Review 1143-1151 (2013) and
- ¹⁴ Children's Bureau, *In-Home Services in Child Welfare* (2014), available at https://www.childwelfare.gov/pubPDFs/inhome_services.pdf
- ¹⁵ Children's Bureau, *Reunification: Bringing Your Children Home From Foster Care* (2016), available at <https://www.childwelfare.gov/pubPDFs/reunification.pdf>
- ¹⁶ See Child Focus, *Children in Kinship Care Experience Improved Placement Stability, Higher Levels of Permanency, and Decreased Behavioral Problems: Findings from the Literature*, available at <http://grandfamilies.org/Portals/0/Kinship%20Outcomes%20Review%20v4.pdf>; and Heidi Redlich Epstein, *Kinship Care is Better for Children and Families* (2017), ABA Child Law Practice 36(4), available at <https://www.grandfamilies.org/Portals/0/CLP%20full%20kinship%20edition%20-%20julyaug2017.pdf>
- ¹⁷ Jessica Schmidt et al., *Who Am I? Who Do You Think I Am? Stability of Racial/Ethnic Self-Identification among Youth in Foster Care and Concordance with Agency Categorization* (2015), Child Youth Serv. Rev. 56 61-67, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4521220/>; Puneet Chawla Sahota, *Kinship Care for Children who are American Indian/Alaska Native: State of the Evidence* (2019), Child Welfare 97(2) 63-78, available at <https://search.proquest.com/docview/2264890904?pq-origsite=gscholar>; see also Ariella Hope Stafanson, *Supporting Cultural Identity for Children in Foster Care* (2019), available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/supporting-cultural-identity-for-children-in-foster-care/
- ¹⁸ Grandfamilies, *Children Thrive in Grandfamilies Factsheet* (2016), available at <https://www.gu.org/app/uploads/2018/05/Grandfamilies-FactSheet-ChildrenThriveinGrandfamilies.pdf>
- ¹⁹ Nicholas Zill, *Adoption from Foster Care: Aiding Children While Saving Public Money*, Brookings Institution (2011), available at <https://www.brookings.edu/research/adoption-from-foster-care-aiding-children-while-saving-public-money/>
- ²⁰ *Id.* at 4.
- ²¹ Alia Innovations, *The Unseen Costs of Foster Care: A Social Return on Investment Study* (2019), available at <https://hiddencostsoffostercare.aliainnovations.org/>
- ²² This estimate was not calculated using government-reported costs; the researchers estimated annual cost per child based on previous studies' estimates of medical services, court costs, administrative costs (including caseworkers), and maintenance (payments to foster families). This methodology may help explain the discrepancy in annual cost per child as calculated by Detroit Center for Family Advocacy, Sankaran (2014), and others (see note 26)
- ²³ *Id.* at 11 and 12.
- ²⁴ *Id.* at 15
- ²⁵ *Id.* at 6-7.
- ²⁶ Detroit Center for Family Advocacy, *Promoting Safe and Stable Families* (2014), available at <https://artscimedia.case.edu/wp-content/uploads/sites/35/2014/02/14194055/CFARReport.pdf>
- ²⁷ Safe & Sound, *The Economics of Child Abuse: A Study of California* (2019), available at <https://safeandsound.org/wp-content/uploads/2019/08/Safe-Sound-2019-CA-Report.pdf>
- ²⁸ Expanding Access to Justice, *Strengthening Federal Programs: First Annual Report of the White House Legal Aid Interagency Roundtable*, November 2016, available at <https://www.justice.gov/atj/page/file/913981/download>
- ²⁹ Legal Aid Interagency Roundtable, *Civil Legal Aid Supports Federal Efforts to Strengthen Families* (2016), available at <https://www.justice.gov/lair/file/829316/download>
- ³⁰ See <https://mailchi.mp/7a1c87e428de/justresearchnov2019>
- ³¹ See <https://www.american.edu/spa/jpo/toolkit/upload/foster-care-factsheet-12-20-19.pdf>
- ³² See <https://www.naccchildlaw.org/page/PolicyNews>
- ³³ https://www.ils.ny.gov/files/ABA_Summary_Of_Parent_Representation_Models.pdf
- ³⁴ See <https://familyjusticeinitiative.org/research/> and <https://familyjusticeinitiative.org/iv-e-funding/>

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- ³⁵ Casey Family Programs, *Strategy Brief: Transforming Child Welfare Systems* (2020), available at <https://www.casey.org/preventive-legal-support/>
- ³⁶ See <http://civilrighttocounsel.org/> and <http://civilrighttocounsel.org/map>
- ³⁷ <https://www.ndacan.acf.hhs.gov/index.cfm>
- ³⁸ <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport25.pdf>
- ³⁹ The AFCARS Report Preliminary FY 2018 Estimates as of August 22, 2019, available at <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport26.pdf>
- ⁴⁰ <https://www.acf.hhs.gov/cb/research-data-technology/reporting-systems/ncands>
- ⁴¹ <https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/child-maltreatment>
- ⁴² <https://www.acf.hhs.gov/cb/resource/child-maltreatment-2017>
- ⁴³ <https://www.acf.hhs.gov/cb/research-data-technology/reporting-systems/nytd>
- ⁴⁴ <https://www.acf.hhs.gov/cb/resource/data-briefs>
- ⁴⁵ <https://www.aecf.org/work/kids-count/kids-count-data-center/>
- ⁴⁶ See <https://www.childtrends.org/>; <https://www.childtrends.org/indicators/foster-care/>; and <https://www.childtrends.org/indicators/child-maltreatment>
- ⁴⁷ The Children's Advocacy Institute, *A Child's Right to Counsel: A National Report Card on Legal Representation for Abused & Neglected Children (Fourth Edition)* (2019), available at https://docs.wixstatic.com/ugd/2b5285_aa4a099876dd40ee853d6861e8ba8b5b.pdf
- ⁴⁸ Emily Palmer & Jessica Huseman, *The Law Says She Should Have Been Protected From Birth. Instead, She Was Left in the Care of Her Drug-Addicted Mother, Who Killed Her* (2019), available at <https://www.propublica.org/article/the-law-says-she-should-have-been-protected-from-birth-instead-she-was-left-in-the-care-of-her-drug-addicted-mother-who-killed-her>
- ⁴⁹ <https://www.lsc.gov/what-legal-aid/client-success-stories>
- ⁵⁰ See <https://voicesforciviljustice.org/> and <https://www.allriseforciviljustice.org/>
- ⁵¹ <https://legalaidresearch.org/>
- ⁵² https://www.americanbar.org/groups/legal_aid_indigent_defendants/resource_center_for_access_to_justice/atj-commissions/atj_commission_self-assessment_materials1/studies/
- ⁵³ Rebecca L. Sandefur and Aaron C. Smyth (2011), *Access Across America: First Report of the Civil Justice Infrastructure Mapping Project*, available at http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf

SUMMARIES OF KEY STUDIES

1. Frank Edwards. (2019). Family Surveillance: Police and the Reporting of Child Abuse and Neglect. Russell Sage Foundation Journal of the Social Sciences, 5(1), 50–70. <https://doi.org/10.7758/RSF.2019.5.1.0>

Local police reporting is a key component in American family surveillance systems. Police reports of child abuse and neglect account for about one-fifth of national reports sent to child welfare agencies. It is well-known that factors such as the racial makeup, socioeconomic characteristics, and geographic location of communities largely determine the extent and intensity of their exposure to the criminal justice system. This produces short- and long-term consequences for families and communities. This study describes some of the interactions between child welfare agencies and local policy and explores the relationship between police activity and maltreatment reporting. It finds that the policing helps explain the disproportionate rates of maltreatment investigations of Indian–Alaska Native children and families. It concludes that the distribution of policing affects which children and families undergo unnecessary child protection interventions and which cases of maltreatment go unnoticed.

Methodology: Outcomes for this study are constructed from the National Child Abuse and Neglect Data System, the federal data system responsible for tracking child maltreatment investigations and responses. NCANDS records case-level information on all investigated reports of child maltreatment annually with data reported from state and local child welfare agencies to the federal government. It is the most comprehensive source for national information on suspected child abuse and neglect, and contains several million records annually. I construct counts of investigated maltreatment reports initiated by police at the county-year level. NCANDS does not capture reports of child abuse and neglect that are screened out as not requiring an investigation by child welfare agencies. Focal predictors are constructed from the Uniform Crime Reports (UCR) arrests by age, sex, and race annual data for 2009 through 2015 (Federal Bureau of Investigation 2014a). The UCR, collected by the FBI and maintained by the National Archive of Criminal Justice Data, provides the only national time series data on law enforcement activity available at the jurisdiction level and covering the period of interest for this study. This series provides data on arrests by race at the police agency level aggregated to the county level. I also include information on the number of officers employed by police agencies at the county-year level from the UCR Police Employee Data (Federal Bureau of Investigation 2014b).

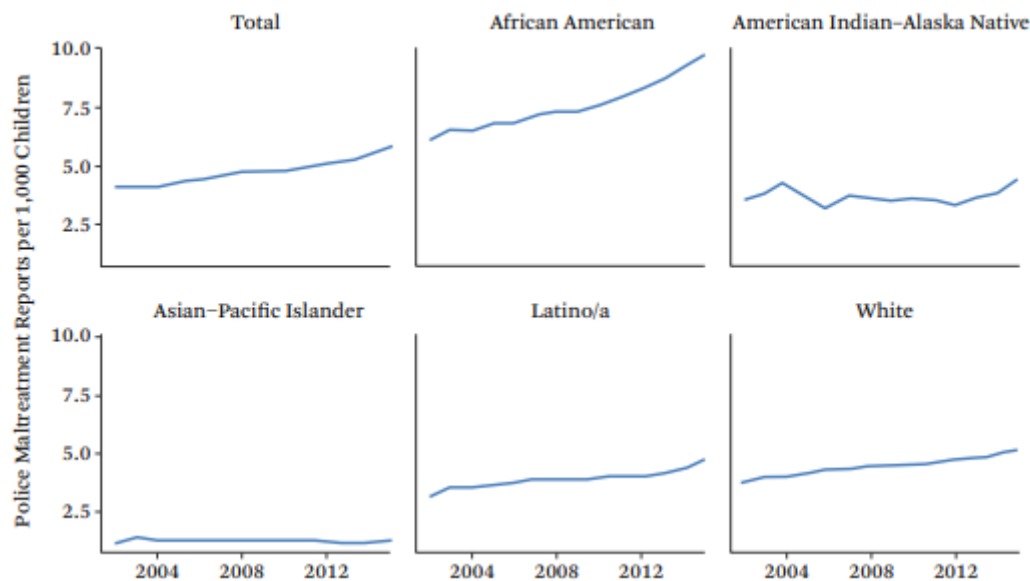
“As with other reporters, neglect is the primary form of suspected maltreatment in most police-filed reports...Children are far more likely to be classified as victims of child abuse and neglect following a child welfare agency assessment when they are reported by police than when reports originate from another source.” (p. 56)

Highlights:

- “Police are less likely than others are to file maltreatment reports involving physical abuse. In 2015, about 17 percent of all investigated maltreatment reports filed by police involved physical abuse, versus 22 percent of reports from all sources” (p. 56)
- “More than 70 percent of police maltreatment reports involving American Indian–Alaska Native children in 2015 centered on allegations of neglect.” (p. 56)
- “Children are far more likely to be classified as victims of child abuse and neglect following a child welfare agency assessment when they are reported by police than when reports originate from another source. Although 22 percent of all investigations result in a conclusion that a child was a victim of abuse or neglect, 39 percent do when police file the initial report.” (p. 56)
- “Black children were subject to 1.9 times more police-initiated maltreatment investigations than white children; American Indian–Alaska Native, Latino/a, and Asian–Pacific Islander children were all subject to a lower rate of police reporting of maltreatment than their white counterparts.” (p. 58)
- “The rate of police reporting of maltreatment increased for three groups—African American, Latino/a, and white children—between 2002 and 2015. Black families saw a 60 percent increase, Latino/a families a 23 percent increase, and white families a 39 percent increase.” (p. 58)

- “County-average arrest rates are positively and significantly associated with rates of police reporting of maltreatment for all offense categories.” (p. 58)
- “Average arrest levels are incredibly strong predictors of the volume of police maltreatment reports involving American Indian– Alaska Native children and families.” (p. 62)

Figure 1. Police-Initiated Reporting Rate and Proportion of All Police-Initiated Investigated Reports



2. Louis A. Gerber, Martin Guggenheim, Yuk C. Pang, Timothy Ross, Yana Mayevskaya, Susan Jacobs., & Peter J. Pecora, (2020). *Understanding the effects of an interdisciplinary approach to parental representation in child welfare*. *Children and Youth Services Review*, 116, 105163–. <https://doi.org/10.1016/j.childyouth.2020.105163>

This article presents findings from a qualitative follow-up study on New York “Interdisciplinary Law Offices” (ILOs) following Gerber, et al.’s (2019) quasi-experimental study of 9,582 families in the NYC Family Court. While the 2019 study found that ILOs hastened reunification for children in the foster care system, this study seeks to understand the mechanisms that speed up reunification and identify the core components of ILOs that make them successful. The researchers identified three key mechanisms of interdisciplinary law offices: 1) uniform high-quality representation; 2) interdisciplinary practice; and 3) paying attention to the client’s well-being.

Methodology: The researchers interviewed 42 practitioners in the New York City Family Court—including judges, court attorneys, attorneys representing parents and children, and child welfare agency attorneys—and 17 parents who had recently been involved in a child protection case in the NYC Family Court. Interviews were conducted in-person and by phone

Highlights:

- “...the presence of social workers and parent advocates in the ILO representation model appeared to increase the amount of communication between court appearances... In addition to improving client satisfaction, the capability to maintain frequent client contact—buoyed by the interdisciplinary team—facilitates better court preparation within the ILO model, and other advantages...” (p. 5)
- “In a deeper way than panel lawyers, the ILOs prepare to use each court appearance to advance their client’s cause, often accelerating the time cases can be resolved. By actively preparing how to use each court appearance as a potentially significant one, the ILOs help secure children’s

return to their families more quickly through advancing the parent's interests and providing the judge a more holistic picture of the case." (p. 5)

- "...the ILOs approached court proceedings more formally than the panel attorneys, insisting that everyone follow the law; the lawyer believed that, by doing so, children stayed in care for shorter periods of time." (p. 5)
- "Legal practitioners outlined several ways that ILO case practice sped up the court process. This occurred, they believe, because ILOs reduced the need for postponements compared to panel lawyers—whether due to illness, vacation or conflict with another court appearance having been scheduled at the same time." (p. 6)
- "One parent said, 'I was never alone at the ACS conferences. 'Having a trained advocate on the parent's side at these meetings shifts the dynamic of the conference and ensures that the parent's voice will be heard; in many cases, practitioners and parents believed that this led to decisions more favorable to parents than would otherwise have happened'" (p. 7)
- "We found that when attorneys developed a supportive relationship, parents trusted their attorneys and cited this as a reason for engaging in services about which they may otherwise have been skeptical. Parents also described being more open to disclosing confidential personal information to their attorney which helped their case but they may otherwise not have disclosed." (p. 8)
- "While respondents expressed a range of opinions about specific issues and effects of the introduction of ILOs, a consistent theme emerged that parent representation markedly improved overall—with benefits to parents, children, and the Family Court itself." (p. 11)

3. Kristen Pisani-Jacques. "A Crisis for a System in Crisis: Forecasting from the Short- and Long-Term Impacts of COVID-19 on the Child Welfare System." *Family court review* 58.4 (2020): 955–964. Web.

The COVID-19 pandemic exacerbated many issues already present in the child welfare system, including isolation, scarcity, uncertainty, and stress. Many of the short-term effects of the pandemic response, the author of this article argues, will continue to take a toll on the child welfare system and the families within it. The author provides a summary of the immediate impacts of the pandemic on families and youth in the child welfare system, the anticipated long-term effects of those factors, and important lessons learned from the pandemic fallout and ways the system adapted to the public health crisis.

"The child welfare system can mitigate the worst impacts of COVID-19, and begin to become the kind of system that families need and deserve, by focusing on and emphasizing high-quality legal representation, creativity in advocacy and policy design, and meaningful youth and family engagement – all best practices that shone through even during the pandemic." (p. 1)

- "The pandemic reinforced that high-quality legal representation is critical for youth in the child welfare system." (p. 6)
- "During COVID-19, attorneys have had an important and complicated role to play in ensuring clients' legal rights were protected and advanced, and that due process did not suffer, even in a legal landscape with challenging and complex access to courts. That role continues to be important during the after-effects of COVID-19 and beyond. Youth in the child welfare system need high-quality attorneys who are well-supported, trained, and resourced." (p. 6)
- "Virtual participation in some court hearings by youth and parents may be appropriate, for example, to keep from children missing school and parents missing work. Negotiation and mediation can lead to lasting and positive outcomes for children and avoid the pain and discomfort of contentious court hearings. Written advocacy allows attorneys to get all relevant authority in front of judges, including social science, federal law, and best practices from around the country." (p. 7)
- "What COVID-19 taught us was the extremely harmful consequences that can result when family voice is not meaningfully engaged. The child welfare system should reflect post-COVID on how to more intentionally incorporate family and youth voice into decision-making." (p. 7)

4. Louis A. Gerber, Yuk C. Pang, Timothy Ross, Martin Guggenheim, Peter J. Pecora, & Joel Miller, *Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare*, 102 Child. and Youth Serv. Rev. 42 (2019), available at <https://www.sciencedirect.com/science/article/pii/S019074091930088X?via%3Dihub>

Researchers from Action Research (Brooklyn, NY), New York University School of Law, Casey Family Programs, and the Center for Law and Justice at Rutgers University analyzed the impact of interdisciplinary law office (ILO) representation (including social work staff, parent advocates, and salaried attorneys) for parents involved in child welfare proceedings in New York City Family Court. They studied the foster care and safety outcomes of 9,582 families and their 18,288 children. The researchers found that when parents received wraparound services, children spent an average of 118 fewer days in foster care during the four years following the abuse or neglect case filing. Children whose parents received ILO representation also achieved overall permanency, reunification, and guardianship more quickly and did not experience an increase in the rate of subsequent substantiated reports, indicating that child safety was not compromised by the outcomes observed.

Methodology:

Data for this study was provided by the New York City Administration for Children's Services (ACS) and attorney rosters for each of New York City's panels and ILOs. The researchers matched attorney names in administrative data to attorney staff rosters to determine whether parents received panel or ILO representation. They then tracked outcomes of 9,582 families over four years to compare case outcomes based on whether parents were represented by solo practitioners or law offices with multidisciplinary representation.

Highlights:

- "The key findings are that (1) when children do enter foster care, ILO representation decreases their stays in foster care by nearly four months (118 days) on average through faster reunification and guardianship when compared to a solo practitioner attorney, (2) that ILO representation did not impact child safety – defined as the likelihood of a subsequent substantiated report of child maltreatment – when compared to solo attorney representation, and (3) that ILO representation did not impact the prevalence of foster care entry, as compared to solo attorney representation" (p. 52).
- "On average, a child who enters out-of-home care will spend 658 days in foster care through 48 months of petition filing if an ILO attorney represents their parent, compared to 776 days if a panel attorney represents their parent – 118 days fewer with ILO representation" (p. 51).
- "... [C]hildren achieved reunification approximately 43% more often in the first year; 25% more often in the second year; and 8% more often in the third year. With respect to guardianship, children achieved guardianship approximately 106% more often in the first year; 67% more often in the second year; 36% more often in the third year; and 10% more often in the fourth year" (p. 52).
- "... [C]hildren achieved permanency approximately 34% more often in the first year; 25% more often in their second year; 17% more often in the third year; and 9% more often in the fourth year" (p. 52).
- "In addition to benefiting children and families, an interdisciplinary law office approach to parental representation may save millions of government dollars ... Presuming our results hold for dual-respondent petitions and subsequent petitions, a savings of 118 days per child who enters foster care would mean 472,000 bed days per cohort (4000 times 118) should all children's parents receive the ILO representation as compared to the panel representation" (p. 52).

- "Using a foster care board rate of \$83.83 for family foster care in New York City – a rate provided by the ACS – yields an annual savings of almost \$40 M for a fully implemented program. These savings are conservative in that we do not include the higher rates of (1) residential treatment or group care bed days and (2) children who qualify for special or exceptional rates due to behavioral, developmental, or medical challenges" (p. 53).

5. Steve M. Wood et al., *Legal Representation in the Juvenile Dependency System: Travis County, Texas' Parent Representation Pilot Project*, 54 Fam. Court Rev. 277 (2016), available at <https://onlinelibrary.wiley.com/doi/full/10.1111/fcre.12218>

Researchers at the National Council of Juvenile and Family Court Judges conducted a program evaluation for a parent representation pilot program in Travis County, Texas. The researchers found that when counsel was appointed earlier (less than ten days from the initial hearing to full appointment), children were more likely to experience permanent outcomes. This research was funded by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice.

Methodology:

This is a program evaluation for a parent representation pilot program in Travis County, Texas. Researchers collected data from 172 parents involved in the juvenile dependency system. The outcomes of 52 cases where parents participated in the attorney representation program were compared to those of 61 control cases.

Highlights:

- "Participation in the pilot program [of parental representation] was significantly related to permanent outcomes" (p. 282).
- "The findings also indicate that pilot attorneys appeared at the 14-day, second permanency, and final hearings more often than control attorneys. In addition, pilot attorneys were present at a higher percentage of hearings across the life of the case than control attorneys" (p. 284).
- "The current findings suggest that a lack of legal representation is placing parents at a disadvantage with regard to having their children returned to them. This may also result in children being placed outside of the home for periods of time that are longer than necessary" (p. 286).

6. Vivek Sankaran, *Using Preventive Legal Advocacy to Keep Children from Entering Foster Care*, 40 Wm. Mitchell L. Rev. 1036 (2014), available at <https://repository.law.umich.edu/articles/947/>

Vivek Sankaran, a University of Michigan law professor, details the different circumstances that can result in a child entering foster care and where legal services can intervene and stop a child from entering foster care in the first place. He describes a model of advocacy, where legal service providers and social workers work together, reducing the chance that a child will spend time in foster care. The article is included in this research brief because Sankaran also provides an economic analysis of the model to estimate potential savings for the state of Michigan and identifies a cost avoidance of over \$1.3 million and an overall net savings of \$500,000.

Methodology:

Sankaran describes a multidisciplinary model of legal and social work advocacy addressing the legal needs of children at risk of entering foster care. He also calculates an estimated cost savings for the

state of Michigan based on the number of cases the Detroit Center for Family Advocacy (CFA) could prevent and the average cost for a child to remain in foster care.

Highlights:

- "A lawyer may be able to prevent a child from entering foster care in the first instance. Children may unnecessarily enter foster care because their parents are unable to resolve legal issues that affect their safety and well-being in their home" (p. 1037).
- "A parent's inability to resolve legal issues may jeopardize a child's safety and well-being in the home and may increase the likelihood of a child entering foster care. For example, a domestic violence victim may be unable to secure a personal protection order and may be forced to allow her child to have contact with his abusive father" (p. 1039).
- "Although, in most parts of the country, juvenile courts appoint lawyers to represent parents and children in child welfare proceedings, these lawyers are appointed only after a child has already been removed from his parents' home and placed in foster care. ... Thus, collateral issues affecting the child's safety—such as housing, domestic violence, and custody matters that, if resolved, could prevent the child from entering foster care—are rarely addressed." (p. 1040).
- "In 2009, the University of Michigan Law School's Child Advocacy Law Clinic created the Detroit Center for Family Advocacy (CFA), which provides legal and social work advocacy to families to prevent children from entering foster care. ... Typically, when children enter foster care, they remain there for an average of 21.1 months. The average annual cost for a child to remain in foster care is over \$45,000. Thus, if the model prevented a quarter of the children served by the CFA from entering foster care, the cost avoided by the child welfare agency would be over \$1.3 million, providing a net savings to the system of over \$500,000 once the costs for funding the model are included" (p. 1041, 1043).

7. [National Council of Juvenile and Family Court Judges, *Exploring Outcomes Related to Legal Representation for Parents Involved in Mississippi's Juvenile Dependency System, Preliminary Findings* \(2013\), available at <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=266785>](https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=266785)

This is a preliminary report on the effect legal representation has on parents involved in Mississippi's juvenile dependency system. Researchers at the National Council of Juvenile and Family Court Judges write that providing legal representation to parents in the juvenile dependency system is a "best practice" and helps improve outcomes for children (p. 3). The results outlined in this report are descriptive. The researchers found that providing legal representation to parents in juvenile dependency cases increased the likelihood that parents attended court.

Methodology:

The researchers performed a program evaluation on whether providing representation to indigent parents affects short-term juvenile dependency outcomes in Forrest and Rankin Counties in Mississippi. They also surveyed parents involved in the juvenile dependency system in DeSoto, Forrest, Harrison, and Rankin Counties to compare perceptions of those who were and were not represented by an attorney.

Highlights:

- The average amount of time from petition to filing for mothers in Forrest County who received an attorney was 16.38 days. The longest a mother went without an attorney was 106 days.
- 100 percent of mothers in Forrest County who did not have an attorney (n=4) stipulated to all allegations, compared to 87.5 percent (n=7) with an attorney. 100 percent of fathers who did not have an attorney (n=2) stipulated to all allegations, compared to 60 percent (n=3) with an

attorney. This suggests that the number of contested hearings is higher for parents who have an attorney than parents who do not have an attorney.

- "Mothers and fathers [in Rankin County] who had an attorney were present in court more often than mothers and fathers who had no attorney or who received advice and counsel" (p. 26).
- "First, across both counties, mothers were present in court more often across the life of the case when they had an attorney versus when they had no attorney. In Rankin County, fathers were also present more often across the life of the case when they had legal representation. Although it is not captured in this data, having an attorney may help parents attend court more often because they now have an increased sense of accountability" (p. 36).
- "Parents who had an attorney (hired or court-appointed), in comparison to parents who had no attorney, generally expressed more positive opinions about their courtroom experience." Parents stated that their attorneys "helped make decisions in their case" and that they "had a better understanding of what they are supposed to do next" (p. 5).

8. Elizabeth Thornton & Betsy Gwin, *High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost Savings*, 46 Fam. L. Q. 139 (2012), available at <https://www.jstor.org/stable/23240377>

In this paper, Thornton and Gwin present three case studies that demonstrate how legal representation for parents improves child outcomes and can lead to cost savings. The first case study examines the Center for Family Representation (CFR), which is located in New York City. At CFR, attorneys provide representation to over 80 percent of parents involved in child welfare proceedings in Manhattan and 50 percent of cases in Queens. When parents used CFR's legal assistance, more than half of the children avoided foster care placement and when the child was placed in foster care, the median length of stay was 2.2 months, compared to the state average of 2.5 years. The second case study is the Detroit Center for Family Advocacy (CFA), located in a Detroit neighborhood with the highest rate of removal of children to foster care in Michigan. CFA helped 50 families during child protection investigation and prevented foster care for 112 children. The third case is an examination of Washington State's Office of Public Defense Parent Representation Program, a model in which attorneys provide legal representation to parents. The researchers cite findings from Courtney & Hook's 2007 evaluation of OPD, detailed in summary 6 below.

Methodology:

The researchers present three case studies: New York City's Center for Family Representation (CFR), Detroit's Center for Family Advocacy (CFA), and Washington State's Office of Public Defense Parent Representation Program (OPD). They analyze how three parent-representation models impact child welfare outcomes.

Highlights:

- "Improving legal representation and support for parents in child welfare proceedings results in better outcomes for children and families and can lead to substantial savings of government funds" (p. 139).
- "For those families that cannot reunify, effective parent representation has significantly reduced the time children spend in foster care awaiting permanency" (p. 140)
- "Successful programs tend to adhere to the Practice Standards and share key features, including: appointment of parents' attorneys early in the case; interdisciplinary teams of attorneys and social workers; caseload and performance standards; and training, supervision, and support for parents' attorneys" (p. 141).
- At the Center for Family Representation, "Data tracked from 2007 shows that more than 50% of children of CFR clients avoided foster-care placement all together. Where foster care could not

be avoided, the project's median length of foster care was just 2.2 months compared to a statewide average of nearly two and a half years" (p. 143).

- "CFR's services cost approximately \$6,000 per family over the entire life of the case, a sum that is vastly less expensive than a single year of foster care for a single child, which in 2010 was minimally \$29,000 per child per year and which can be as much as \$66,000 per child per year" (p. 144).
- "Since opening its doors in 2009, CFA has served approximately fifty families during the child protection investigation. In 100% of those cases, the case closed with children residing with a permanent family outside of the child welfare system. The CFA team helped prevent the need for foster care placement for 112 children in less than two years. The most common legal issue that the CFA team helped clients resolve was housing, eviction, and landlord-tenant disputes" (p. 145).
- "The most recent and comprehensive evaluation examined the program's earlier permanency impacts for over 12,000 children in foster care from 2004 to 2007. This evaluation shows that the OPD Parents Representation Program significantly increases the rate at which children reach permanency and shortens the time to permanency for children in foster care for all permanency outcomes" (p. 147).
- "There was an 11% increase in the rate of reunification in OPD counties, as compared to counties without OPD. There was a 104% increase in the rate of adoption, and an 83% increase in the rate of guardianship. When researchers converted these rates into real time, the results are striking—the 11% improvement in rate of reunification translates into 27 days or almost one month less time a child spends in foster care." (p. 147).
- In OPD: "The majority (68%) of children in the evaluation sample who attained permanency reunified with parents. For those children and families who could not achieve reunification, adoptions and guardianships in OPD counties were accelerated by approximately one year" (p. 148).
- "Regional evaluation findings also point to the conclusion that providing parents with high-quality representation can reduce the hard costs associated with extended foster-care placement. Some of those costs can include foster care maintenance payments, Medicaid, administrative costs, and court costs. Reducing those hard costs may also shape the human costs of foster care placement. Reducing the need for foster care placement should free-up child welfare agency resources to better serve those children who must be placed or remain in foster care—potentially having a positive effect on the human costs currently associated with foster care placement" (p. 152).

9. Mark E. Courtney & Jennifer L. Hook, *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care*, 34 Children & Youth Serv. Rev. 1337 (2012), available at https://partnersforourchildren.org/sites/default/files/2011._evaluation..._impact_of_enhanced_parental_legal_representation....discussion_paper.pdf

Washington State's Office of Public Defense (OPD) launched a pilot program in 2000 called The Parent Representation Program, which increased the number of parents receiving legal representation in family law cases. In this program evaluation, Courtney and Hook found that speed to adoption and guardianship double with legal representation. This research was supported by the Partners for Our Children at the University of Washington. Also see summary 8 for a program evaluation conducted by OPD in 2010.

Methodology:

The researchers performed a program evaluation for 12,104 children who entered court-supervised out-of-home care for the first time in Washington State between 2004 and 2007. They obtained data from the

Washington Department of Social and Health Services' Case and Management Information System (CAMIS) and the Administrator of the Courts (AOC).

Highlights:

- "The availability of adequate parental legal representation speeds reunification with parents, and for those children who do not reunify, it speeds achieving permanency through adoption and guardianship" (p. 1).
- "If PRP [Parent Representation Program] had existed statewide in 2001, the 2001 cohort of children in care would have achieved reunification about a month sooner, and children who could not be reunified would achieve other permanency outcomes about a year sooner" (p. 4).
- When parents had legal representation, speed to reunification increased by 11 percent, speed to adoption increased by 104 percent, and speed to guardianship increased by 83 percent (p. 4).
- "Our findings suggest that, far from serving as an obstacle to adoption and guardianship, the availability of adequate legal counsel might facilitate a parent's acceptance of the need to find another permanent home for their child if the parent and child cannot reunify " (p. 6).

10. Steve M. Wood & Jesse R. Russell, *Effects of Parental and Attorney Involvement on Reunification in Juvenile Dependency Cases*, 33 Children and Youth Services Review 1730 (2011), available at <https://www.ncjfcj.org/sites/default/files/Parental%20and%20Attorney%20Involvement%202011.pdf>

Researchers at the National Council of Juvenile and Family Court Judges analyzed how mother and father involvement in juvenile dependency cases and their respective legal representatives at the preliminary protective, adjudication, disposition, and first review affect reunification in juvenile dependency cases. They found that reunification was more likely when parents were present in court and had legal representation.

Methodology:

The researchers used data from Colorado and California, accessed from the archives of the National Council of Juvenile and Family Court Judges. They used regression analyses to estimate the independent variables (influence of mother's presence, mother's legal representative's presence, father's presence, and father's legal representative's presence) impact on the rate of reunification.

Highlights:

- "First, having mothers present at the preliminary protective, adjudication, disposition, and first review hearings increases children's chances of being reunified with their families. Second, assigning mothers legal counsel at or before one of these four early decision-making hearings will also increase the chances of reunification" (p. 1735).
- "The current study finds that children whose mothers were present at each of the four early hearings in California and Colorado were more likely to be reunified with their parent(s), and this reunification occurred sooner across the life of the case than children whose mothers were not present at these early hearings. Similar findings were made for children whose mothers' legal representative were present at each of the four early decision-making hearings compared to children whose mothers' legal representative were not present" (p. 1736).
- "Children whose fathers were present at the disposition hearing in California and Colorado were more likely to be reunified, and more expediently than children whose fathers were not present at this hearing. Similar outcomes occurred for children whose fathers' legal representative was present at the disposition hearing compared to children whose fathers' legal representative was not present" (p. 1736).

11. Washington State Office of Public Defense, *Reunification and Case Resolution Improvements in Office of Public Defense (OPD) Parents Representation Program Counties* (2010), available at http://www.opd.wa.gov/documents/0049-2010_PRP_Evaluation.pdf

Washington State's Office of Public Defense (OPD) launched a pilot program in 2000 called The Parent Representation Program, which increased the number of parents receiving legal representation in family law cases. At the time of this study, The Parents Representation Program operated in two-thirds of the state, providing state-funded attorneys for indigent parents. The OPD conducted a program evaluation from 2000 to 2005 on 1,817 dependency cases. They found that reunifications increased with parental representation. The OPD worked with the Washington State Center for Court Research to conduct this program evaluation. Also see summary 5 for a program evaluation conducted by Courtney & Hook in 2012.

Methodology:

This study is a program evaluation. ODP examined every case file from January 2004 to March 2004 and January 2007 through March 2007 to see the impact of parental representation on dependency cases within 28-31 months after filing.

Highlights:

- "Implementation of the OPD Parents Representation Program in 15 counties resulted in 10.4% more reunifications in filed cases (equaling a 39% rate increase). ... Implementation of the OPD program also resulted in earlier case resolutions, with 10.6% more case resolutions within about 2.5 years (representing an 18.3% rate increase). ... Non-OPD program counties' cases showed no significant change in reunification or case resolution rates" (p. 1).
- "The OPD program resulted in significant increases in reunifications in cases filed in 2007 and tracked longitudinally through August 2009 in comparison to non-program cases filed three years earlier. The OPD program also resulted in a significant increase in earlier case resolutions. During the same time period, 14 non-OPD program counties' cases showed no appreciable change in reunifications or earlier case resolutions. These results indicate that the OPD program is positively impacting parents' ability to succeed in their cases and children's ability to reunite with their families" (p. 5).

12. Andrew E. Zinn & Jack Slowriver, *Expediting Permanency: Legal Representation for Foster Children in Palm Beach County* (2008), available at <https://www.issueab.org/resources/1070/1070.pdf>

The Children's Services Council of Palm Beach County contracted with the Legal Aid Society of Palm Beach County in July 2001 to provide legal representation to children entering shelter care in Palm Beach County through the Foster Children's Project (FCP). Children's Services Council and Legal Aid Society of Palm Beach County contracted with Chapin Hall Center for Children at the University of Chicago in April 2006 to conduct a third-party evaluation of FCP to determine whether providing legal representation to children impacted the nature or timing of children's permanency outcomes. The researchers found that children represented by FCP exit to permanency at rates of 1.38-1.59 times higher than children not served by FCP.

Methodology:

For their evaluation, Zinn and Slowriver used data from the Florida Department of Children and Families' (DCF) HomeSafeNet administrative database and court files from Palm Beach County Juvenile Court. They also conducted qualitative interviews of 21 participants, including judges, attorneys, and DCF and social service agency staff, 21 youth, and seventeen parents.

Highlights:

- “In general, children represented by FCP were found to have a significantly higher rate of exit to permanency than comparison children (i.e., children not served by FCP because of a legal conflict [see above]). Specifically, in the analyses based on DCF administrative data and court record reviews, respectively, FCP children exited to permanency at rates 1.38 and 1.59 times higher than comparison children. Most of this difference, however, appears to be a function of much higher rates of adoption and long-term custody among FCP children, with FCP children experiencing these exits at rates between 1.73 and 3.53 times as great as comparison children” (p. 14-15).
- “Interestingly, the higher rates of adoption and long-term custody experienced by FCP children were not found to be offset by significantly lower rates of reunification. This is of note because, were it the case that FCP was pursuing adoption or long-term custody in lieu of reunification, we would expect to see significantly lower rates of reunification among FCP children. In these analyses, however, no significant differences in reunification rates were found” (p. 15).
- Age appeared to predict the type of exit that children experienced. With each additional year of age, the rate of exit to adoption or long-term custody for children in the court record review sample decreased by 22 percent. Conversely, with each additional year of age, the rate reunification increased by 12 percent.
- No differences in rates of reentry between FCP and comparison children were found, indicating that faster times to reunification did not sacrifice safety or permanency.
- “Taking into consideration the estimated costs of substitute care, ongoing adoption subsidies, and FCP representation, the net cost of FCP associated with each additional day of permanency was estimated to be as low as \$32” (p. 1).