Inadequate housing represents a significant challenge to the child welfare system and the families it serves. Too often, unsafe housing is the sole or a contributing reason that a child is placed in foster care and once in care, a lack of adequate housing can delay family reunifications.

Child welfare agencies across the country struggle to respond to this crisis. Inadequate funding, a lack of housing expertise, and the sheer magnitude of the problem can overwhelm already overworked agencies. Addressing family housing problems could mitigate harm to children, reduce agency caseloads, improve family well-being, and result in significant cost savings.\(^2\)

The Importance of Safe, Stable Housing

Research has shown that living in safe, affordable, and stable housing is linked to a child’s physical, social, emotional, and cognitive health and well-being. Conversely, housing insecurity—defined as high housing costs compared to income, poor housing quality, overcrowding, and frequent moves or homelessness — can have a devastating impact on children. Housing insecurity is linked to poor health, diminished growth, and increased developmental risks, along with a greater likelihood of experiencing food insecurity.\(^2\)

Poor quality housing — evidenced by unhealthy air quality; the presence of lead paint, pests, and mold; a lack of home safety devices; and other coexisting hazards — places children at risk for multiple physical health problems. It is also linked to emotional and behavioral harm and lower average reading and math skills among adolescents. The impact of low-quality housing is both direct (e.g. through exposure to lead paint) and indirect (e.g. inducing stress in parents and increasing mental health problems). Rather than...
Safe Spaces from previous page

offering a source of security and respite, a substandard home may contribute additional pressures on poor families, leading to a cumulative negative impact on their well-being.3

Children in families who are frequently behind in rent are often at risk of delays in social, emotional, motor and cognitive development, significantly below average in height (an indication of undernutrition), and in poor-to-fair health.4 Many of these families move frequently, either due to legal or illegal evictions or in order to seek better housing or neighborhoods for their children. According to one study, “[m]ultiple moves in childhood can have lifelong impact, as evidenced by higher rates of adverse childhood events, lower global health ratings in adulthood, and increased mental health and behavior concerns lasting through adolescence and into adulthood.”5

For many low- and middle-income families, safe and stable housing is out of reach. Throughout the country, the shortage of affordable housing — combined with rising rents and stagnant wages — has limited where people can live, with lower-income families often confined to substandard housing in unsafe, overcrowded neighborhoods. According to the National Low-Income Housing Coalition, 71% percent of rental families living below the federal poverty line in 2017 were severely cost-burdened — spending more than half of their income on rent and utilities and having little remaining funds to cover other basic needs, such as food and health care.6

The Impact of Housing on Child Welfare-Involvement Families

Ensuring safe and adequate housing is both a prevention strategy — stabilizing families and safely reducing child removals — and an intervention strategy — reducing unnecessary and harmful delays to family reunification. When safe and stable housing is in place, parents can better focus on other challenges they may be experiencing that either precipitated or contributed to child welfare-involvement.

While most states prohibit removal of children due solely to inadequate housing, child welfare agencies frequently encounter housing issues that impact a child’s safety.7 In 2014, inadequate housing was reported as a reason associated removal from the home in over 10 percent of cases nationwide.8 Even though there is little evidence of a direct link between poor housing conditions and child maltreatment,9 inadequate housing and homelessness continue to play a significant role in how families are assessed by child welfare agencies.10 Parents who have completed their case plans and are otherwise ready for reunification can be stalled by a lack of acceptable housing. Nationally, approximately one-third of children in foster care are prevented from returning home because of their families’ insufficient housing.11 These delays in reunification require state and local agencies — which are already under-resourced — to cover the continued cost of expensive, out-of-home care.12

In addition, many child welfare-involved parents face personal barriers to achieving suitable housing, including eviction histories, credit issues, or a criminal record. Renting an apartment large enough to


IN THIS ISSUE:

Safe Spaces: Child Welfare Involvement and the Role of Housing ........................................ 1
Child Welfare Law and Practice (Order Your Red Book Now!) ......................... 5
Youth Perspective: I Wish My Lawyer Knew... ................................................ 6
New Platforms to Advance Justice for Children and Families .......................... 8
NACC’s Summer Campaign ............................................................................ 8
Colorado Friends & Family ........................................................................... 8
New Research: NYC Family Representation Study: Q&A with the Researchers ... 9
Resource Spotlight: Rigged ........................................................................... 12
New Tool from the ABA Children’s Rights Litigation Committee .................... 13
Children’s Claims for Damages for Abuse In Foster Care ............................... 14
Amicus: NACC Files Amicus Brief in Colorado Case: Children’s Claims for Damages for Abuse In Foster Care .................................................. 18
Family First Act Resources ............................................................................ 19
May/Jun Reader Panel Question: How have you used your advocacy to challenge buzzwords? .......................... 20
Practice Tips .................................................................................................. 21
NACC Policy News ....................................................................................... 22
Membership Matters ..................................................................................... 23
Child Welfare Law Specialist Certification ..................................................... 25
See You in Anaheim for the 2019 Conference! .............................................. 26
NACC Training Program .............................................................................. 27
National Association of Counsel for Children ................................................. 28

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accommodate several children often forces families to make difficult trade-offs between affordability and habitability. Untreated mental health challenges and substance abuse can exacerbate this problem; a lack of stable housing can further contribute to emotional stressors. In addition, parents who are survivors of domestic violence have a higher rate of housing instability.12

A lack of adequate public housing, including Family Unification Program (FUP) vouchers, exacerbates this problem. Even when public housing options exist, complicated eligibility rules and requirements can create unnecessary barriers to enrollment. For example, housing programs funded by the U.S. Department of Housing and Urban Development (HUD) often exclude people who, though living in precarious housing situations (e.g. doubling up, couch surfing, or moving frequently from place to place), are not actually experiencing street homelessness, thereby making them ineligible for the program.

**Housing Programs for Child Welfare-Involved Families**

As child welfare agencies struggle with how to address the impact of housing on their caseloads and budgets, several potential solutions have emerged.

**Financial Assistance**

Some child welfare agencies provide cash assistance to pay for security deposits and first and last month’s rent and utility arrears, along with money for furniture and moving expenses. In one Philadelphia-based program, financial support is also available for minor repairs to owner-occupied homes to address unsafe housing that could threaten a child’s removal or delay a family’s reunification.

In Illinois, the Department of Children and Family Services’ (DCFS) Norman Program provides financial support and housing counseling to help families of children who are at risk of being placed in DCFS care or who cannot be returned home due to a lack of food, shelter, clothing or other critical items. The emergency cash assistance available through the Norman Program pays for a security deposit and/or first month’s rent, housing repairs, utilities, food, clothing, and furniture. Housing counselors offer an array of services to help families identify and maintain housing, including locating units, meeting with potential landlords, and providing transportation to view apartments. They also assist families in applying for income assistance programs, link them to community resources and provide follow-up services to prevent future housing problems. In FY18, the program served more than 3,500 families.

**Supportive Housing**

Permanent supportive housing provides housing and intensive case management for people experiencing mental health, substance abuse or other disabilities. Evaluations show that homeless families in supportive housing generally experience increased stability and improvement in other outcomes.13

In September 2012, the U.S. Department of Health and Human Services awarded five-year demonstration grants to five sites across the country to test the effectiveness of supportive housing for vulnerable families involved in the child welfare system. While the projects vary in their specific program design, all employ a Housing First approach. This approach focuses on quickly and successfully connecting individuals and families experiencing homelessness to permanent housing without requiring sobriety or an agreement to participate in services. According to a research report by the Urban Institute, “[e]ach site aims to overcome silos and create long-lasting systems change by integrating services across the child welfare agency, the local housing authority, housing- and homeless-service providers, and other partners in the community.”14 Grants did not pay for housing costs. Participating sites were required to leverage their community-based housing resources or partner with housing agencies and use housing vouchers or raise private funds.

A recent evaluation of the programs by the Urban Institute found supportive housing overwhelmingly improved housing outcomes for child welfare-involved families in the study. After one year, families in the treatment group evidenced greater housing stability, and fewer housing quality issues than those in the control group. Evaluators found that supportive housing also led to increased numbers and faster reunifications of children in placement.15

**Housing Vouchers**

The federal Family Unification Program (FUP) provides permanent housing subsidies for families for whom a lack of housing is a primary factor in placement.16

their separation. A local housing authority must apply to the U.S. Department of Housing and Urban Development for FUP vouchers, with the child welfare agency signing a MOU. Child welfare agencies then identify families eligible for the program, refer them to the local housing authority for approval, and provide time-limited services to help families maintain their housing. The number of vouchers awarded ranges from 1 to 600 per community, and advocates are continually seeking an additional supply of vouchers.16

FUP has been called the “gold standard” for addressing the housing needs of child welfare-involved families.17 Findings from a randomized controlled trial suggest that families with FUP rental assistance experienced lower risk for homelessness and out-of-home placement compared with those who did not receive the subsidy.18 However, FUP supports a relatively small number of clients and is outpaced by a large demand—long waiting lists are not uncommon.19 As a result, communities are looking to other models of housing support.

Rapid Rehousing

In Philadelphia, a new pilot program that uses a rapid rehousing model to assist homeless families is in its first year. Rapid re-housing was originally designed to help people exit homelessness and become stabilized as quickly and efficiently as possible by providing housing search assistance, short-term rental assistance, and housing counseling services.

The Rapid Rehousing for Reunification (RRR) program — a joint initiative of the Philadelphia Department of Human Services and the Office of Homeless Services — applies this model to the needs of child welfare-involved families whose imminent reunification has been delayed solely due to housing. The program helps participants locate private rental units, covers initial move-in costs, provides one year of rental assistance (with the client contributing 30% of their income), and offers housing stabilization counseling. In addition, housing counselors work with participating families to develop a household budget and housing retention plan and make linkages and referrals to other agencies or departments that can address the household’s needs. The Philadelphia program is in its first year, with 21 families enrolled and 13 families reunified to date.

While the research is still emerging, initial studies show that the rapid rehousing model has been successful in finding immediate housing for families and veterans who have exited the homeless system. Most do not become homeless again, however, the majority do continue to struggle with housing affordability. Importantly, the RRR program is being formally evaluated which will determine how well the rapid rehousing model supports the needs of child welfare-involved families whose reunification is delayed due to housing.

Strategic Partnerships to Address Housing Needs

Strategic partnerships between child welfare agencies and local housing authorities, homeless services agencies, and private nonprofit housing organizations are critical to addressing the unique challenges facing child welfare-involved families. These collaborations can also help facilitate cross-agency trainings, data-sharing, and new or expanded housing options.

Lawyers can advocate for clients to receive needed housing services by building relationships with housing service providers in their community. Begin by identifying any housing related resources in your community, including emergency funding, housing support and placement and financial assistance for home repair. Get to know the area Office of Homeless Services which in most communities is tasked with housing homeless or housing-insecure families. Learn what legal and other resources are available for clients facing eviction. Finally find out what emergency housing shelters are available to help homeless families. While every case presents different challenges, obtaining information and building relations ahead of time will help clients who face housing issues. Finally, join interagency advisory groups to assist with these efforts on a systemic scale.

There is no easy solution to the affordable housing crisis nor is there a quick fix to mitigate the harm of out-of-home placements or delayed family reunifications on children and youth. However, many jurisdictions are paving the way through their strategic partnerships and well-designed housing programs, offering lessons and best practices for other communities to replicate and refine.

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Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases, 3rd Edition, more commonly known as the Red Book, is the flagship legal treatise in this field. This fundamental, comprehensive publication is an essential day-to-day resource for attorneys in the practice of child welfare law. In addition to being a crucial practice reference and training manual, it also serves as the foundational source and study guide for the Child Welfare Law Specialist (CWLS) certification exam.

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I Wish My Lawyer Knew...

I think often about the six years I was in foster care, the familial instability and abuse I endured that led to me becoming a foster child at the age of ten, and the abundant growth I’ve made to become a persevering young adult today. I wish my lawyer knew what his lasting impact has been on my life. At such a fundamental and vulnerable time in my adolescence, no other prominent figure involved in my case offered as much genuine support, honest guidance, and intentional care for my well-being than he did. He approached my case plan as a partnership — breaking with conventional practices of excluding foster youth from informing the decisions that directly impact their lives. In doing so, he empowered me to speak and be heard, evoking what would eventually evolve into a lifelong commitment to empower young people.

As I grew older, shuffling from placement to placement, and later, coming and going in and out of “the system,” I became acutely aware of my voice and the power I held in guiding my case plan to be the most practical for my needs and effective for my long-term stability. This boldness came as I learned to advocate for myself against the will of people in positions of authority who persisted to make decisions about my life without welcoming me to be part of my own journey. Feeling empowered to advocate for my own needs, however, wouldn’t have been possible without the support of my lawyer at the Children’s Law Center of Los Angeles, Joseph Barrell. He welcomed my involvement but didn’t ever shy away from transparency. And more often than not, the truth was hard.

There are more foster youth than there are foster homes; social workers are over-capacitated1 with overwhelmed caseloads; without adequate time to prepare, children’s lawyers are whiplashed with new cases daily; and there’s hardly ever space at the table for the young person in care to participate in the conversation. I grew tired of hearing the “same old, same old.” But the hardest truth I couldn’t avoid was the denial I had about my mother’s addiction. Time and time again the Department of Children and Family Services petitioned the court for reunification with my father — forcing me to attend family therapy sessions and unmonitored home visits with a physical and emotional abuser who subjected me to conversion therapy for five years of my early childhood. They felt justified in knowing I had no other family interested in caring for me. And the truth was my mother simply couldn’t.

The few good memories I have of my childhood are of my mother. Having been raised by separated parents, I looked to her for comfort and our time together as a respite from my father’s beatings and punishment. My lawyer understood the bond we shared transcended hope in our hopeless circumstances. He was the only person to pause and consider the potential of our success if we were able to reunify. And instead of turning a blind eye, instead of ignoring my unwavering persistence to not be returned to the care of my father, he chose to plant seeds in good faith and guide us together again. Inevitably, I grew up sooner than I should have by assuming the parental position at such a young age to care for my mother. I encouraged her to seek treatment and supported her through recovery all the while making sure I wasn’t simultaneously thrown around like a rag doll in the system. This “off the record guidance” and mentorship was invaluable in eventually demonstrating her sobriety and gradual stability to the court. My lawyer didn’t just not give up on us wanting to reunify — he was fundamental in saving my mother’s life so that we could.

However, the damage had already been done. Years had gone by and nothing was the same. I was growing up, with unknown resentment, and my mother was recovering, with guilt she couldn’t admit. We had been kept apart for such a long time we didn’t know how to communicate, and we...

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1. Over-capacitated (noun / adjective): beyond someone’s personal capacity. ("Over-capacitated" acknowledges the overall structural issues of the foster care system. Whereas, using the word “overburdened” implicitly frames the foster youth as a “burden”).

Shéár Avory (pronouns: they/them/theirs) is a social justice advocate living in New York City committed to the advancement of social, economic, racial, gender, and disability justice and the empowerment of young people. They aspire to soon pursue degrees in political science and international relations to continue obstructing systemic oppressions and empower communities to envision solutions for social change.
lacked trust in each other. And because the focus had intently been on reunification with my father, my mother and I were left to fend for ourselves. Consequently, I’d come and go in and out of “the system” many times over to access the support and services we needed. It became increasingly easier to become a ward of the state again and again than it was to return home. Because of my lawyer, I knew I’d be okay despite the revolving door of instability that would foreshadow my life to this day. He understood that too often the system does more harm than good, and in my case, my mother and I hadn’t been set up for success. We were predestined for failure from the beginning.

All too often, foster youth are branded as “the problem child” and thought of as separate from their circumstances — a harmful culture children’s lawyers can be influential in changing! An eye-opening report published by The Human Rights Campaign speaks to this reality for LGBTQ youth in the foster care system:

“A recent study in Los Angeles conducted by the Williams Institute found that nearly 1 out of 5 (19.1%) LA-based foster youth are LGBTQ and the percentage of youth in foster care who are LGBTQ is between 1.5 and 2 times that of youth living outside of foster care.” Furthermore, “research shows that LGBTQ youth are more than twice as likely as their non-LGBTQ peers to report being treated poorly by the foster care system. A survey of LGBTQ youth in out-of-home care in New York City found:

- 78 percent of LGBTQ youth were removed or ran away from their foster placements as a result of hostility toward their sexual orientation or gender identity.
- 100 percent of LGBTQ youth in group homes reported verbal harassment.
- 70 percent of LGBTQ youth reported physical violence in group homes.”

My lawyer understood this context and integrated a consciousness of wellness with young people as a guiding principle. Without judgment, we’d pick up where we left off more determined than before to be sure I could continue progressing with access to essential resources and opportunities to connect with my community. By the time of my first group home placement at the age of eleven, I had attended eleven public schools and was experiencing unyielding bullying and harassment. Within a week of being enrolled in yet another new middle school, I was suspended for defending myself from physical violence. Made to look like the “problem child,” I was considered for expulsion from the school district. Instead of allowing fate to determine the outcome, I decided to take matters into my own hands by Googling non-traditional alternatives for middle and high school students. As one of the few people to accept my developing gender identity and affirm the expression of my whole self, my lawyer’s allyship was crucial in successfully petitioning the court — with my search findings and a letter I wrote personally to the judge overseeing my case — to order I be able to its primary responsibility: wellness.

The most significant form of stability I found as a foster youth was in knowing I had a confidant in someone. Our mentor-mentee relationship broadened my understanding of how to advocate for myself effectively, pioneered opportunities to speak on my own behalf, and established the autonomy to assert my needs. Because of this, today my advocacy is rooted in the empowerment of young people. What began out of necessity for survival as a foster youth is now an all-encompassing purpose to advance social, economic, racial, gender, and disability justice. Beyond investing in the development of my leadership, my lawyer’s greatest impact is the assurance I gained in knowing that at the end of the day, when all is said and done, I can look to myself to be my own advocate. I wish he knew, because I’d simply say thank you.

Moving forward in the hustle and bustle of your day-to-day workflow, take a moment to consider opportunities to invest in the leadership of young people and ask how you’re empowering foster youth to speak for themselves to determine their own futures.

3. Wellness embodies safety as an aspect of one’s whole well-being. Knowing this establishes the responsibility to see the young person in care for their whole self (including their circumstances) and to prioritize a care model that is comprehensive to the foster youth’s individual needs.

4. A mentor-mentee relationship is a personal connection with a lasting impact that isn’t confined to law school textbook basics. It is a long-term investment in the potential and well-being of the young person in care. Fostering a mentor-mentee connection with the young people you represent is a different way of approaching “just another case.”
New Platforms to Advance Justice for Children and Families

In this time of 24-hour news alerts, heightened threats, and story after story of suffering and loss, it can be challenging to keep hope alive and focus on the path to progress. The pull of business as usual is strong, but the power of advocacy is stronger. And the power of an advocacy community working collectively can literally change the way business is done.

Recent changes in federal child welfare funding have aligned to support what social science and common sense have long demonstrated: that children thrive best in families, that foster care should be a rare intervention reserved for the most serious cases after thorough consideration, that kinship placement mitigates the trauma of removal and family separation, and that high-quality legal services pave the way for the very best possible child welfare outcomes.

At NACC, your practice is our purpose. Whether it is sharing information about a new tool, a new federal law, or new research to inform your practice, NACC is working to expand and disseminate resources to support your advocacy. This summer, NACC is launching a 50-state strategy and state coordinator program to strengthen this national network and provide more practice and policy support at the local level. With the availability of Title IV-E funding, now is the time to improve and expand legal service delivery systems for children and parents consistent with standards of practice and guidelines for institutional law office management.

Stay tuned for more information as this work develops, and feel free to reach out to NACC any time with requests for policy advocacy support, particularly as it pertains to Family First and Title IV-E funding for legal representation.

Thank you for the work you do every day for children and families. The NACC team wishes our best to you and yours this summer!

Kim Dvorchak, JD
NACC Executive Director

NACC’s Summer Campaign

NACC is shifting our end-of-the-year giving campaign to the summer months of July and August.

NACC was founded on August 4, 1977, by a handful of lawyers who wanted to make sure the attorneys representing children in court had the training and education needed to take on this awesome responsibility.

Now in our 43rd year as a nonprofit organization, NACC is launching our 2019–2023 Strategic Plan, which includes a 50-state strategy to ensure every child, in every state, has access to high-quality legal representation. And today, our community can leverage new federal funding to address the systemic barriers to children’s justice.

This summer help accelerate access to justice by making a one-time or monthly charitable contribution to NACC’s General Fund or the Megan Louise Furth Youth Empowerment Fund. Please donate today. Thank you!

Colorado Friends & Family

Now you can donate your old car to NACC! NACC is a participating nonprofit with Driven to Donate, which helps Colorado nonprofits accept vehicle donations.

Driven to Donate does all the work for you—all you have to do is sign up online or call 303-296-9020. You get a tax-deductible contribution for 100% of the net proceeds and Driven to Donate sends 50% to NACC.
New Research

NYC Family Representation Study: Q&A with the Researchers

Have you heard the buzz about the newly published study of multidisciplinary representation for parents in child welfare proceedings? NACC asked the researchers some of your most pressing questions:

Let’s start with the headline question: What’s this study about and what were the key findings?

This multiyear study of child welfare cases in New York City courts evaluated whether the kind of legal representation provided to parents makes a difference in case outcomes. The study compared case outcomes based on whether parents were represented by solo practitioners who are experienced lawyers appointed to the Assigned Counsel Panel or by professionals who are part of a multidisciplinary law office that includes lawyers, social workers, and parent advocates.

Here are the key findings:

- **Reduced Time in Care:** Multidisciplinary representation reduced children’s time in foster care by nearly 4 fewer months during the 48 months following the petition filing, through faster early reunification outcomes, compared to panel representation. This amounts to up to nearly $40 million annual savings in foster care board rates for New York City.

- **Child Safety:** Children were just as safe with multidisciplinary representation. Representation type did not impact whether children experienced a subsequent substantiated report of child maltreatment during the 24 months following the petition filing.

- **First Year Reunifications:** Giving parents the right kind of legal team means families are reunited significantly sooner than would otherwise happen. The multidisciplinary family defense offices secured the safe return of children to their families approximately 43% more often in the first year than the solo lawyers.

- **Second Year Reunifications:** The multidisciplinary family defense offices secured the safe return of children to their families 25% more often in the second year.

- **Faster Rates of Guardianship:** The family defense offices enabled children to be permanently released to relatives more than twice as often in the first year of a case and 67% more often in the second year. These families may otherwise have been permanently dissolved or the children may have spent their childhood separated from their family and aged out of foster care without family connections.

Why was this an important research topic and how did you choose the site in NYC?

Few studies have looked at the impact of parent representation on the outcome of family court cases, with one notable exception which was a major study by Mark Courtney on Washington’s parent representation program that showed that enhanced parent representation sped up the time to permanency outcomes for children. New York City was chosen because beginning in 2007, New York City used two distinct forms of legal representation for parents entitled to court-assigned counsel in child welfare cases. Parents were assigned either a solo practitioner chosen from
a highly selective panel of experienced attorneys or staff attorneys from a multi-disciplinary office which, in addition to lawyers, also employed social workers and parent advocates. Because both models operate concurrently, New York City offered a rare opportunity to compare the models side-by-side. The purpose of the study was to determine whether there would be any difference in the outcomes of the cases based on the kind of legal representation provided.

**What is the scope of the study? (How many families, over what time period, geography?)**

This is the largest study of parental representation in family court ever conducted, tracing the outcomes of 9,582 families and their 18,288 children through a four-year follow-up period. We looked at cases filed in the New York City Family Court, in all boroughs except Staten Island which does not have a multi-disciplinary office. We narrowed our sample to only each family’s first petition in court and only single-respondent cases (meaning only one parent is named in the case). These families were selected to create the most direct contrast between the panel and multidisciplinary models of parent representation.

**Confidentiality is always an important consideration. How did you gain access to the data and other case information?**

The study was reviewed by the New York City Administration for Children’s Services, the New York State Office of Children and Family Services, the Action Research IRB, the NYU IRB, and the Casey Family Program Human Subjects Review Committee to make sure our protocols met legal and ethical rules for studies that work with sensitive data and vulnerable people. Action Research is certified as HIPAA compliant by a third-party auditor, meaning that our training, policies, and technology comply with the strict rules governing how personally identifiable health information is protected. Action Research has a long track record of working with confidential data, has never had a data breach, and carries cyber-insurance in the unlikely event that a breach occurs in the future. Our staff have experience conducting interviews with many vulnerable populations, including youth in foster care, parents with children in foster care, and foster parents, as well as crime victims and others involved in the justice system.

**Were there any particular types of cases where the multidisciplinary model had the greatest impact? (e.g., neglect v. physical abuse, infants v. teens, etc.)**

Our focus was making a strong causal assessment of whether the type of representation parents received made a difference overall in case outcomes for families. We wanted to know—in the clearest and most rigorous way—does this intervention have an overall impact? We didn’t actually examine whether there was a differential impact of the program on subgroups of the families, but we think this is an important area that we hope future researchers will take up.

**Does the study have any limitations? What are they?**

Absolutely, there’re a couple of important limitations that we highlight in the article. First, because we wanted to examine the two models of representation in the clearest possible way, we excluded some families from the study—family’s subsequent petition filings (i.e., a family’s second or third case), and dual respondent cases (where two parents are named in the case). We did this because, given the nuances of the New York City Family Court, those families would likely receive both models of representation, and so it would be difficult to attribute the outcomes of the case to one form of representation. Second, the statistical technique we used (called propensity score matching) to compare the programs overall is strong, but a well-executed natural experiment or randomized controlled trial would even more strongly assess the impact of the model. While we think the study provides the most direct and rigorous comparison of the two models, policymakers should consider these nuances. We also hope future researchers will look to assess the impact on two-parent cases and parents with previous court involvement in child welfare.
It seems that working in teams helped improve outcomes. Does the research explain why? Do we know whether it is in the interdisciplinary nature of the teams, or could it be that simply working in an office is better than solo practice?

In addition to the quantitative article that was recently published, this research project included a qualitative study where we interviewed judges, attorneys, and parents about their experiences with the two models. Stay tuned for the release of the qualitative article which we hope will shed light on this question.

What are the next steps? What are the next questions that need to be researched?
Our next set of articles will describe the mechanisms of why the interdisciplinary law office model works so well, so that other jurisdictions can incorporate those elements specifically into their family defense models. Second, there is considerable interest in parent representation models that represent parents at the point of child protection investigation (as opposed to later on when the court case is filed). We strongly encourage other researchers to explore evaluating the impact of these types of programs. Third, we will be estimating the cost and cost-savings implications of exporting NYC’s model to other jurisdictions. The current study only included a rough estimate of cost savings in foster care bed days but didn’t get into any increased costs of providing the model or other savings related to court functioning—for example, fewer hearings—that the model produced. Casey Family Programs has generously provided funding to the research team to continue to answer these questions.

High quality legal representation is in the national child welfare spotlight right now. How might this study contribute to that conversation?
There is a growing appreciation across the country that investing in the right kind of legal representation for parents and children in child welfare cases can advance everyone’s interest in improving child welfare practice. Some express concerns that investing too heavily in parental representation may cause delays in the system to the detriment of children, or place children at risk of harm. This study’s findings support a different narrative: that investing in parental representation furthers the shared interests of children, parents, and government stakeholders. We found that children are able to be returned to their homes substantially faster than would otherwise happen if given a solo practitioner, and that the children whose parents are represented by multi-disciplinary attorneys are at no greater risk of harm. We believe these findings should greatly advance this national conversation. The study’s conclusions strongly support the claim that multidisciplinary parental representation serves the interests of all stakeholders in the child welfare system.

The following research team contributed to these responses: Lucas Gerber, Martin Guggenheim, Susan Jacobs, Yuk Pang, Peter J. Pecora, and Timothy Ross.
Rigged
By Hailly Korman & Kelly Robson,
Bellwether Education Partners

How do you choose between going to first-period science class and meeting with your court-ordered social worker? Or between meeting your probation officer and going to work your assigned shift? Or studying for that test and caring for your younger siblings? These choices are the reality for far too many young people today.

The more than five million young people who interact with social service agencies for any reason — homelessness, incarceration, foster care placement, etc. — are met with an array of adults who need lots of things from the youth: meetings, phone calls, appointments, and paperwork. This myriad of adults, caseworkers, social workers, teachers, probation officers, mentors, therapists, judges, and lawyers are all working on behalf of an individual child simultaneously, but likely without coordination. A child’s social worker may not know that the appointment she just rescheduled conflicts with an existing therapy appointment. But the child does, and now must make the choice between seeing his social worker or his therapist.

We want all kids to graduate and be on a path toward postsecondary success or employment at a family-sustaining income, and yet, as the system currently exists, we expect youth to simply figure it out: to hold steady jobs and manage their responsibilities, their relationships, and their health, all while staying focused on graduating from high school. And the adults — well-meaning individual actors — simply cannot overcome the constraints of a fragmented system.

We created Rigged as an entry point to understanding the trade-offs that system-involved youth must make on a daily basis. For these kids, it’s not as simple as making “good choices” — too often, there isn’t a clearly right or wrong choice and all options have consequences. We hope that this game fosters a fuller understanding of the challenges youth face as they attempt to navigate the burdens placed on them by a fragmented, siloed system that seems to be rigged against them.

About the Game
Rigged is a game of choices in which players must balance the consequences of their decisions against five domains: finances, relationships, health, academics, and responsibilities. Players are presented with a scenario and two choices. Every choice affects one or more of those domains, sometimes positively and sometimes negatively.

The choose-your-own-pathway format of the game allows players to play multiple times, changing their priorities and their focus. Sometimes there really is no right answer. Sometimes you make what seems to be an obviously “right” answer, only to find that it backfires later in the game.

The characters, stories, events, and decisions are based on real-life accounts from students we talked to across the country. None of the elements are fictional, though they have been combined in a way that protects the privacy of the students who shared their experiences with us.

Rigged is winnable. You can, in fact, make it through to high school graduation — but it’s difficult. We
How People are Using Rigged

Rigged is not just a game for individuals to play, it is a powerful advocacy tool that organizations and leaders can use to build empathy: ground difficult conversations in real stories; educate judges, attorneys, and policymakers; and give diverse community stakeholders a sense of shared experience. A number of organizations around the country have used Rigged with their staff and boards to kick off critical meetings and retreats or as part of organizing campaigns around issues like juvenile justice reform and investments in youth development.

We encourage you to use this game in your work independently or contact us to facilitate a tailored and in-depth working session for your team.

Additional Resources

Design Methods for Education Policy

This website curates 54 human-centered research methods from organizations like IDEO, Stanford’s Hasso Plattner Institute of Design, and Nesta that are particularly well-suited to education policy work.

Disrupting the Divide

Based on input from youth, data strategists from school districts, data scientists and engineers, application developers, data advocates, nonprofit organizations, and state board of education staff, this report describes an aspirational model data tool for supporting students as they transition among schools and programs.

Continuity Counts

This paper makes the case that the education system can serve as an effective through-line for the children and youth experiencing traumatic life experiences by using two key levers for change: continuity of people and continuity of information. Improving the continuity of people — by, for example, identifying a single adult to serve as a child’s “chief of staff” — will help ease the burden currently placed on vulnerable children and youth of navigating complex bureaucracies and myriad adults. Improving the continuity of information can eliminate frustration related to missing or incomplete data and records.

Creating More Effective, Efficient, and Equitable Education Policies with Human-Centered Design

Policy practitioners can use human-centered methods to create better education policies because they are informed by the people whose lives will be most affected by them. This report provides a brief overview of the evolution of human-centered design; catalogs examples of its use in the education sector; explores how its methods and processes might be added to the policy research toolkit; and outlines limitations, risks, and potential for next steps.

Contact Us

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New Tool from the ABA Children’s Rights Litigation Committee

Trauma Caused by Separation of Children From Parents: A Tool to Help Lawyers

This tool was designed to help lawyers use current research demonstrating the harm caused to children by family separation. Whether you are a child welfare lawyer who wants to encourage a court to balance the harm of removing a child with the risk of abuse or neglect that the child faces by remaining in the home, a delinquency lawyer who wants to encourage a placement that preserves a child’s relationship with their family, or an immigration lawyer who wants to emphasize the damage done when a child is separated from his or her parents, this information is laid out in a way that allows you to easily use the research. If you have an additional resource to be added or you would like to give feedback on this tool generally, please contact Cathy Krebs.
Children’s Claims for Damages for Abuse In Foster Care

by David J. Lansner and Carolyn A. Kubitschek
© Lansner & Kubitschek, June 2019

When the government removes a child from her parents and takes her into its custody, the government must, at a minimum, provide the child with a living arrangement that is safe. Too often, it fails to do so. Children in foster care are too often abused by their substitute caretakers.

No child should ever be abused in foster care. Unfortunately, foster care providers — including government agencies, private agencies, and foster parents — have not often been held accountable for their abuse of foster children. This article will discuss one form of accountability — liability in civil actions brought by (or on behalf of) abused foster children.

Lawyers who represent children in juvenile or family court should be aware of the liability of the foster care agencies. If children’s lawyers do not normally handle lawsuits for money damages, they should refer the abused children to attorneys who do. There are two types of lawsuits available, and each abused foster child may have the right to either type of remedy, or to both types.

1. Some jurisdictions explicitly include this duty to preserve and refer tort claims in GAL Practice standards or in ethical opinions. See, e.g., DC Bar Ethics Opinion 252. “Obligations of a Lawyer Appointed Guardian ad Litem in a Child Abuse and Neglect Proceeding With Respect to Potential Tort Claims of the Child.” Available at: https://www.dcbar.org/bar-resources/legal-ethics/opinions/opinion252.cfm

2. Liability under the United States Constitution

The substantive right at issue

The United States Constitution provides that individuals have a right to liberty. That right includes the right to “personal security,” i.e., the freedom from inflicted injury, which is sometimes known as “bodily integrity.” To implement that right, the United States Supreme Court has held that individuals who are in government custody have a right to be protected from harm inflicted by others, including third parties. Foster children, all of whom are (by definition) in government custody, have constitutional rights to protection by their governmental custodians from physical injury, and to safe conditions of confinement. This constitutional right has been upheld by all of the Courts of Appeals which have considered the issue.

Since 1871, federal statutes have provided that an individual whose constitutional rights have been violated by a state or local official or employee has the right to sue to vindicate his or her constitutional rights and to obtain injunctive relief, declaratory relief, and money damages.

When the government takes a child into custody and places the child in foster care, the government “assumes at least a rudimentary duty of safekeeping.” If the government places the child in a dangerous situation, it may be held liable. Therefore, if a child in foster care suffers injury, even at the hands of a third party such as a foster parent or an employee of the foster care agency, the agency and its employees may be held liable to the child if their actions or omissions caused that injury.


4. United States v. Giordano, 442 F.3d 30, 47 (2d Cir. 2006); Hernandez v. Texas Department of Protective and Regulatory Services, 380 F.3d 872, 881 (5th Cir. 2004).


7. Doe v. New York City Department of Social Services, 649 F.2d 134 (2d Cir. 1981); Nicini v. Mora, 212 F.3d 798 (3rd Cir. 2000); Doe ex rel. Johnson v. South Carolina Dept. of Social Services, 597 F.3d 163, 175 (4th Cir. 2010), cert. denied, 131 S.Ct. 392 (2010); Hernandez v. Tex. Dept. of Protective & Regulatory Servs., 360 F.3d 872 (5th Cir. 2004); Medad v. Cabinet For Human Resources, 902 F.2d 474 (6th Cir. 1990); K.H. by Murphy v. Morgan, 914 F.2d 846 (7th Cir. 1990); Norfleet v. Arkansas Department of Human Services, 989 F.2d 289 (8th Cir. 1993); Tamas v. Department of Social & Health Services, 630 F.3d 833 (9th Cir. 2011).

8. The United States Supreme Court has addressed the issue only in a footnote: “several Courts of Appeals have held, by analogy to Estelle and Youngberg, that the State may be held liable under the Due Process Clause for failing to protect children in foster homes from mistreatment at the hands of their foster parents. See Doe v. New York City Dept. of Social Services, 649 F.2d 134, 141-42 (2d Cir. 1981), after remand, 709 F.2d 782, cert. denied, sub nom. Catholic Home Bureau v. Doe, 464 U.S. 864 (1983); Taylor v. Ledbetter, 818 F.2d 795 (11th Cir. 1987), cert. den. 489 U.S. 1065, 109 S.Ct. 1337 (1989). We express no view on the validity of this analogy, however, as it is not before us in the present case.” Deshaney v. Winnebago County Department of Social Services, 489 U.S. 189, 201 n. 9 (1989).


2. The right to be protected from physical assault is a component of the right to liberty guaranteed by the Due Process Clause of the Fourteenth Amendment and is not dependent upon the identity of the assailant but rather derives “from the limitation [the state] has imposed on his freedom to act on his own behalf.” The constitutional duty to foster children is the “duty to protect citizens from harm” regardless of whether that harm is inflicted by the foster parents or by others.

Over the past several decades, children’s organizations have filed high-profile class action lawsuits against foster care agencies in a number of states, alleging that unconstitutional policies on the part of those agencies have caused widespread harm to foster children. Courts have generally upheld the standing of those organizations to file lawsuits on behalf of children in foster care seeking systemwide reform. While those efforts may have prompted important policy changes, they have generally not sought money damages for individual foster children. The Plaintiff foster children thus are not made whole by those lawsuits, even though they may obtain system-wide reforms which will enable other foster children to live safely in foster care.

Basis of liability

A foster child who seeks redress for having suffered abuse in foster care must prove that the agency violated its duty to protect her and that the violation caused her to suffer abuse. However, actual knowledge of a risk to the child is not required to trigger Section 1983 liability. The agency cannot avoid responsibility for constitutional obligations “by delegating custodial responsibility to irresponsible private parties.” The agency remains responsible even if it contracts out the care to private agencies or foster parents.

Standard of liability

Under state law, whether in state or federal court, defendants will be held liable for their negligence. In federal civil rights actions, whether in state or federal court, the standard is stricter. Federal Circuit Courts of Appeals are split as to the appropriate standard of liability in a case involving an abused child. In general, federal courts follow the Supreme Court’s decision in LaShawn A. v. Barry that the constitutional standard in such cases is “recklessness on the part of the very organization that was supposed to protect them from mistreatment.”

David Lansner is a seasoned practitioner in the fields of matrimonial and family law, and civil rights law with more than 36 years of experience. After graduation with honors from New York University School of Law in 1971, he began his public interest work, representing indigent clients in storefront offices with the Office of Economic Opportunity legal services programs, subsequently the Legal Services Corporation. David also spent several years working for the Legal Aid Society’s Juvenile Rights Division, defending children who had been accused of crimes (juvenile delinquency) and children whose parents allegedly abused or neglected them. In 1979, David opened his own law office, handling divorce and custody cases, business litigation, and civil rights work. In January 1991, with Carolyn Kubitschek, David started the firm of Lansner & Kubitschek. David continues to handle matrimonial and family law, general litigation, and civil rights cases. David is highly regarded for the depth of his knowledge in child welfare law. David also represents individuals and families whose constitutional rights have been violated by employees and officials of the child welfare system. His clients include: children who have been abused in foster care, the result of indifference and recklessness on the part of the very organization that was supposed to protect them from mistreatment; children who have been removed from their parents illegally; children who have languished too long in foster care; parents who have been unjustly accused of abusing or neglecting their children; parents whose children have been illegally removed from their care. He has won numerous landmark rulings from federal judges, expanding the legal protection for these most vulnerable children and parents.
foster child, with the majority adopting the “deliberate indifference” standard, while a minority adopting the professional judgment standard, and at least one Circuit undecided. The United States Supreme Court has yet to articulate the standard of liability for cases involving Section 1983 liability in foster care situations. However, the Court has held that the standard of liability in civil rights cases is higher than simple negligence. In cases where prisoners sue the government for failing to protect them from abuse, the Supreme Court has held that the standard of liability is “deliberate indifference.” While the term sounds like an oxymoron, the Supreme Court has clarified that deliberate indifference is a higher standard than simple negligence, a standard that is more or less the same as recklessness. For persons in government custody who are not convicted prisoners, the standard is an objective standard, not a subjective one. By contrast, when involuntarily committed mental patients sue the hospitals for failing to protect the patients from abuse, the standard of liability is “substantial departure from professional judgment.”

In foster care settings, deliberate indifference may be established “from a pattern of omissions revealing deliberate inattention to specific duties imposed for the purpose of safeguarding plaintiffs from abuse.” Subjective intent is not required. Deliberate indifference may also be inferred from the “failure to comply with specific statutory duties.” A jury may also infer deliberate indifference “from a pattern of omissions revealing deliberate inattention to specific duties imposed for the purpose of safeguarding plaintiffs from abuse.”

Carolyn Kubitschek has been practicing law for more than 35 years, concentrating on family law, child welfare, children’s rights, Social Security, and appellate work. Carolyn has written and published extensively on civil rights and Social Security law, and has lectured around the world on family and child welfare law. Carolyn began her career in legal aid in 1973, providing free legal assistance and representation to indigent New Yorkers with civil legal problems. From 1985 to 1990, Carolyn was on the faculty at Hofstra Law School, teaching the federal litigation clinic and serving as managing attorney of Neighborhood Legal Services, the law school’s law office. From 1990 to 1991, Carolyn was the Coordinator of Family Law for Legal Services for New York (LSNY), providing advice, technical assistance, back-up, and co-counseling for legal services attorneys throughout New York City in handling family matters. In January 1991, Carolyn and David Lansner started the firm of Lansner & Kubitschek. She continues to focus on family law, civil rights, children’s rights, Social Security law, and appellate work. Since 2003, Carolyn has served as an adjunct professor at Cardozo Law School, where she teaches a seminar and directs an internship on child welfare law. In 2010, Carolyn was elected an at-large Director of the National Association of Social Security Claimants’ Representatives. She is the recipient of numerous awards and honors. She has a JD from the University of Chicago Law School and a BA from Oberlin College.
Children's Claims from previous page

agencies act “under color of state” law, for purposes of 42 U.S.C. §1983, and can therefore be held liable under the Civil Rights Law. Employment by the government is not necessary to give rise to liability under 42 U.S.C. §1983.

Defenses Immunity laws enacted by the states do not protect defendants from liability in civil rights cases, nor do state caps on recoveries apply. Requirements to file notices of claim against a government body also do not apply in civil rights cases.

However, the Eleventh Amendment prohibits suits against states in the federal courts. That amendment does not apply to suits against local governments, such as cities and counties. If the foster care system is run by the state, then suit must be brought against individual employees and officials of the state, not against the state itself, or the state agency.

Liability under State Law In addition to constitutional claims, foster care agencies and the governmental bodies that contract with them may be held liable for negligence. Everyone has an obligation to use a reason-

able degree of care in dealing with others. When children are involved, the duty of care may be heightened. New York courts have explicitly held that foster care agencies may be held liable in tort for negligently failing to protect foster children from abuse. Other states agree.

Children in foster care are vulnerable and governments have adopted procedures designed to safeguard children while in care. Failure to enforce and/or follow these rules and procedures may be used against the caseworker or supervisor in establishing negligence claims. Liability may be found for such failures as failure to train foster parents to care for special needs children and then placing such children in their homes, failure to obtain a child’s medical record despite having a legal obligation to do so, failing to advise the foster mother about the foster child’s health, failure to make visits to the home required by law, etc. Evidence that the agency or caseworker has not complied with these requirements may be used to establish negligence.

Defenses – immunity While the negligence standard is straightforward, some states have laws which insulate their foster care agencies from liability. A primary provision is the sovereign immunity of the state, since the majority of foster care systems are operated by the states. In a minority of states, the foster care systems are operated by the counties. In those states, the counties may have their own immunity defenses. These so-called “immunity” from liability provisions do not apply as defenses to lawsuits under 42 U.S.C. §1983.

Conclusion Children who have been abused in foster care need justice, and they need money to help them deal with their injuries. Attorneys for children have both the ability and the responsibilities to assist their clients in obtaining both. In addition, such damage actions will contribute to a line of jurisprudence that will help protect future foster children.

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31. Perez v. Sugarman, 499 F.2d 762 (2d Cir. 1974); Keyes v. Nuckelberry House, 1991 U.S. App. LEXIS 1403, at *4 (9th Cir. 1991) (stating that “a private child care institution might be found to be a state actor if the child was in effect a ward of the state and the state was providing care through the private agency”); Barron v. Washington Cnty. Children & Youth Serv. Agency, 2006 WL 393678, at *4 (W.D.Pa. Apr. 11, 2006) (distinguishing between foster care agencies and foster parents for purposes of finding state action under Section 1983); Smith v. Beasley, 775 F.Supp.2d 1344, 1354 (M.D.Fla. 2011); Brent v. Wayne County Department of Human Services, 901 F.3d 656, 676-77 (6th Cir. 2018).
35. Miller v. Martin, 878 So 2d 761, 762 (La. 2003) (“When a child is abused by foster parents, the Department may be held vicariously liable for the abuse.”); Savage v. Utah Youth Village, 2004 UT 102, 104 P.3d 1242, 1246 (2004) (“The Division of Family Services, as a placement agency, could be held liable for its failure to properly evaluate the foster home, its failure to supervise [the child’s] placement and its failure to protect her from harm”); Weatherford v. State, 206 Ariz. 529, 538, 81 P.3d 320, 329 (2003) (“An official faces liability…for placing the child in a dangerous foster care situation of which the official knew or would have known but for the officials deliberate indifference.”).
Amicus

NACC Files Amicus Brief in Colorado Case: Fundamental Fairness at Termination Hearings

A.R. v. D.R., Colorado Supreme Court, Case No. 18SC919

In June, NACC filed an amicus brief in a case before the Colorado Supreme Court. A mother’s parental rights were terminated in the trial court. She appealed that decision claiming that her trial counsel was ineffective. In support of her claim, she highlighted three instances in which her attorney failed to “test the evidence.” First, at the adjudicatory hearing, the county attorney presented no witness testimony and asked the court to adjudicate based solely on the case worker’s written investigation report. Although the mother was not present at the hearing, her attorney proceeded by stating that it would be in the mother’s “best interest” to have the court enter a no-fault admission to the petition. Second, at the termination of parental rights hearing, the county attorney offered no witness testimony or other evidence but asked to proceed by “offer of proof,” to which the mother’s attorney agreed.

Third, under Colorado law, the court must find that there is no “less drastic alternative” prior to granting a termination. In this case, the maternal grandmother were heard. In fact, the mother’s attorney did not call the maternal grandmother to testify at the termination hearing (even though she was present) or present any evidence of a “less drastic alternative.” He simply made his own “offer of proof” that the maternal grandmother would like custody of the child. Subsequently, the court terminated mother’s parental rights based on the county’s “offer of proof” in which the county attorney made statements about how the caseworker would testify if she were called as a witness.

Post-termination, the trial court issued an order finding that the maternal grandmother had filed a timely request for placement and specifically stating that “[t]he order terminating the parental rights of Respondents is currently on appeal. The Court may have dropped the ball on this case early on. The child has extended family on both sides. There is a less drastic alternative to termination. Until the appeals court enters a ruling, this court will hold off on issuing any orders as it relates to the permanent placement of this child.”

A division of the Colorado Court of Appeals found that the mother’s attorney’s deficient performance rendered the termination proceedings presumptively unfair and unreliable. It reversed the judgment terminating mother’s parental rights and remanded the case for a new termination hearing. In doing so, the COA deviated from the prejudice standard that Colorado courts have previously applied to ineffective assistance of counsel claims in termination cases. Colorado courts have applied the Strickland v. Washington standard, which is borrowed from criminal cases, in which the mother would have to show: 1) counsel’s performance was outside the range of professionally competent assistance and 2) the parent was prejudiced by counsel’s errors. In assessing the second “prejudice prong” a Court must find “that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.”

The Court of Appeals noted that although previous divisions of the court have applied Strickland in dependency cases, none has ever analyzed how best to adapt the Strickland prejudice prong to dependency and neglect cases. Therefore, the Court of Appeals determined that the Lockhart v. Fretwell prejudice standard was more appropriate in dependency cases. In Lockhart, the inquiry focuses on whether counsel’s deficient performance rendered the proceeding fundamentally unfair or the result of the proceeding unreliable. The COA noted that the Lockhart standard “better suits parents’ right to counsel under Colorado’s statutory framework for termination of parental rights proceedings” because parents facing termination have procedural protections that guarantee fundamental fairness at termination hearings, including the statutory right to counsel.
The GAL filed a petition for writ of certiorari, which the Department joined. The GAL claimed that the Court of Appeals decision departed from well-settled law on claims of ineffectiveness of counsel in dependency and neglect cases and that this departure is an unjustified expansion which will delay permanency for children.

The Colorado Supreme Court granted review on three issues:

1. Whether the court of appeals, in departing from the decisions of other divisions of the court of appeals, correctly designated “fundamental fairness” as the best means to apply the second prong of the analysis described in Strickland v. Washington, 466 U.S. 668 (1984), when assessing whether a parent’s trial court counsel was ineffective in an appeal from a termination order in a dependency and neglect case.

2. Whether an appellate court may vacate a trial court’s decision in a dependency and neglect case without remanding the case to the trial court to make findings under Strickland’s two-part test.

3. Whether an appellate court, in a direct appeal from a judgment terminating parental rights, may consider a claim of ineffective assistance of counsel based on counsel’s performance at an adjudicatory hearing.

NACC filed an amicus brief addressing the first issue and asking the Colorado Supreme Court to affirm the Court of Appeals decision applying the Lockhart inquiry as to whether counsel’s deficient performance resulted in a fundamentally unfair or unreliable proceeding. NACC’s brief centered on three main arguments.

First, NACC argued that children’s right to family integrity and their interest in timely permanency is served when all parties have competent legal counsel. Second, NACC argued that courts rely on competent counsel to make accurate and well-informed decisions which promote children’s interest in permanency. Therefore, a standard that applies the fundamental fairness test is the most appropriate test to evaluate claims of ineffective assistance of counsel in dependency proceedings in Colorado. Finally, NACC argued that the permanent severing of parental rights is not necessary for achieving permanency and often delays permanency by not considering other less drastic means to achieve permanency.

NACC will continue to provide updates as the case makes its way through the process. Stay tuned.

Family First Act Resources

NACC Family First Act Member Webinar
A Courtroom Advocate’s Guide to the Family First Galaxy
Allison Green, JD, CWLS, Special Counsel, National Association of Counsel for Children
Stefanie Sprow, JD, Deputy Director of Child Welfare & Mental Health, Children’s Defense Fund

This webinar provides an overview of key components of the 2018 Family First Prevention Services Act, the most sweeping piece of federal child welfare legislation in decades. Learn how to translate the law’s mandates into daily courtroom advocacy and legal innovation. Specifically, the session focuses on advocacy tips applied to each stage of a child welfare case: pre-petition, initial hearings, placement decisions, services and permanency pathways.

Available to NACC Members any time in the Member Resources section of our website.

Family First Act Website
FamilyFirstAct.org is a new website created to provide information, resources and advocacy tools on the Family First Prevention Services Act.
You can access summaries of the law, the text of the legislation, stories from constituents with lived experience on why it matters, webinars from national partners, data and research, strategies for implementation and constituent engagement and updates from Congress, HHS and the Children’s Bureau.

You can sign up to receive updates about what’s new in the implementation of the law, utilize communications tools, and download images to share among your networks.

FamilyFirstAct.org is a collaborative project with several national organizations, including NACC!

Every Kid Needs a Family Attorney Advocacy Guide

Before Family First was enacted, NACC partnered with the Annie E. Casey Foundation and the ABA Center on Children and the Law to produce the Every Kid Needs a Family Attorney Advocacy Guide. The tool was designed to assist attorneys in understanding and making arguments to ensure that children are placed in family settings. The tool also provides a framework for advocacy in cases where congregate care placement is recommended, or in cases where that placement has been made. Questions to ask in court are provided in detail, as are helpful advocacy tips.
MAY/JUNE READER PANEL QUESTION

How have you used your advocacy to challenge buzzwords?

This month’s question was inspired by Buzzwords: Moving to Behavioral Descriptors, a resource from the Capacity Building Center for States.

BUFFY OKUMA: One area we see buzzwords used too often is surrounding visitation: “Mom was not engaged.” “Child was negatively affected by the visit.” There is a big difference between a parent who does not have a strong attachment or who texts on their phone rather than giving attention to the child and a parent who is struggling with her child having recently been removed, is in a strange setting, and who feels under the microscope with everyone watching her visit, in her mind waiting to watch her do something wrong. Similarly, assuming that a child’s crying or fussiness at the end of a visit is because the child was having a negative reaction to the parent is often far from accurate. A child crying at the end of the visit can often be as easily (or more) attributable to the child missing her parent, missing her home, missing her dog. We have worked to train those who monitor and report on visitation to describe what they saw and heard during the visit, rather than draw conclusions, after all, it is for the court to reach conclusions.

A less obvious area where we can be mindful of word choice is in drafting the original petition. As an agency attorney, when I am drafting the petition setting forth the reasons a child is in need of protection, I try to stay away from using words that are “judgmental” unless the legal standard requires it. For example, in a case of dental neglect, where the allegation is that the child did not receive proper dental care, one of the allegations might be “Mother failed to get Child dental care.” By changing the word “failed” to “did not” removes an unnecessary layer of judgment against the parent. In my practice, making such changes in the petition has resulted in fewer contested cases and begins the case on a less adversarial tone.

AMANDA PEARSON: Is there a concept of buzz attitudes – buzzitudes? This is where system professionals make implicit judgments about the worthiness of a person working their way through the system or when professionals overestimate their own value/knowledge. For example, professionals who mimic clients in describing a conversation with them. Just like buzz words, these buzzitudes hint at bias that can systemically impact a family’s success in navigating our child protection system and therefore decrease positive outcomes for children.

REBECCA STAHL: I attempt to never use those words. It still happens, but I have very consciously worked on changing my language. If others are doing this, I mention it and try to redirect the conversation, particularly with other lawyers when it happens in conversation. I have reframed conversations where my child clients have used these buzzwords about themselves in particular, and about others in their families (when I feel we have a good enough relationship).

JOIN THE READER PANEL! Guardian readers are invited to join our Reader Panel. You’ll receive an email each month asking for your responses to questions about child welfare legal practice. Selected responses will be featured in The Guardian. Please send an email to Comms@NACCchildlaw.org letting us know you are interested in joining the panel.
**Practice Tips: Understanding Youth Thrive™ Tip Sheet for Family Court Partners**

Safety, Permanency, & Well-being: the three pillars of child welfare practice. While there are many existing resources to assess and advocate around safety and permanency, there are fewer tools for attorneys and courts to incorporate a well-being approach to their casework. The Center for the Study of Social Policy has developed a series of practice pointers for practitioners in the field. What follows are selected excerpts from the Youth Thrive™ Tip Sheet for Family Court Partners.

In recent years, there has been a push for child welfare and juvenile justice systems to focus more intentionally on a youth’s well-being, which involves attention not just to the youth’s safety, permanency and basic needs, but also to their social, emotional, behavioral, physical and spiritual health. This requires professionals who interact with youth to understand the youth’s hopes and aspirations. This way, professionals can assist youth in taking advantage of opportunities where they can pursue their interests and find support when challenges arise. In this way, the five Youth Thrive™ protective and promotive factors represent a pathway to well-being. This guide will help the user identify key impediments and key building blocks for youth well-being.

The Tip Sheet for Family Court Partners serves as a roadmap to enhance the conversations that professionals who appear in family court proceedings have with young people about their journey toward healthy adulthood. The Tip Sheet is designed to provide an introductory summary to the Youth Thrive™ framework for judges, guardians ad litem, lawyers, parents, CASA workers, agency workers and youth. In the section that best fits each participant’s role, they will find questions to ask to explore whether or not youth have the experiences, opportunities and services they need in order to thrive.

The five factors are:

- **Youth Resilience**: A youth’s capacity to manage stress and adversity is critical in dealing with life’s challenges, frustrations and overcoming traumatic history.

- **Social Connections**: A buffer against depression, early sexual activity, violence and substance abuse, youth need social connections with at least one consistent and caring adult and with peers to help them increase knowledge and develop skills, develop a sense of belonging and find meaning in life.

- **Cognitive and Social-Emotional Competence**: Youth need an array of skills to successfully navigate the challenges of adulthood. To develop their cognitive and social-emotional competency, youth need access to experiences that allow them to explore their interests and try new experiences, better understand their personal, gender and cultural identity, practice more independence and responsibility.

- **Concrete Support in Times of Need**: Youth need to feel comfortable asking for help and need to be provided with concrete support and services which minimize stress and provide basic necessities needed to grow and thrive.

- **Knowledge of Adolescent Development**: The adolescent brain develops unevenly – and adversity, trauma and disrupted relationships can impact brain development.

Find more information on the Youth Thrive™ protective and promotive factors and sets of guiding questions, view the Tip Sheet for Family Court Partners.
NACC Policy News

CAPTA Reauthorization
The Child Abuse Prevention and Treatment Act (CAPTA) is currently up for reauthorization. The legislation — titled Stronger CAPTA — was introduced on May 2, 2019 and passed the House of Representatives on May 20, 2019. NACC believes that all parties, particularly children, deserve effective and zealous legal representation to ensure their voices are heard, to advocate for their needs, and to help navigate the complex labyrinth of child welfare processes that shapes their lives. Consistent with our Policy Agenda, NACC is advocating to include a children’s right to legal counsel in Stronger CAPTA.

Your powerful advocacy stories are the most persuasive way to convince decision-makers that children need and deserve counsel in dependency proceedings. Do you have a story about how your legal representation made difference in a child’s case and life? Please email Policy@NACCchildlaw.org.

Additionally, if you would be willing to assist with outreach to your congressional representative, please email Policy@NACCchildlaw.org. We’ll provide the tools you need to do so! Stay up to date on CAPTA developments — including details, summaries, and videos — on NACC’s Policy Action Alerts page.

Title IV-E Funding for Legal Representation — NACC Office Hours!
Have you heard about the new federal funding for children and parents’ attorneys, but need help getting this going in your state?

For many years, the federal government provided 50% reimbursement to states for the costs associated with agency attorneys under Title IV-E. Now, the federal Children’s Bureau has expanded this option to include legal representation for children and parents too. More information about this exciting change can be found here. This is a landmark opportunity to develop, expand, and enhance delivery systems for legal representation — and NACC members are key stakeholders to ensuring that states take advantage of this funding and build effective legal partnerships.

NACC is committed to supporting efforts to expand Title IV-E funding to include legal services for children and parents across states and counties. To better assist you, we are opening up virtual office hours July 15–22, 2019. Sign up now to reserve time to ask questions, request resources, and brainstorm next steps to get things moving in your jurisdiction.

Proposed Changes to AFCARS
The Adoption and Foster Care Analysis and Reporting System (AFCARS) is the federal data reporting system which state child protection agencies are required to use to monitor and track information about the children and families they serve. AFCARS is the best source of uniform data for state and federal policymakers to make informed decisions about laws, regulations, and resource allocation. In 2016, the federal government proposed a final rule that would update AFCARS for the first time since 1992. After a period of delay, the government has now revised the initial proposal to modify or eliminate over 100 data elements, including critical items related to sexual orientation and gender identity, implementation of the Indian Child Welfare Act, educational stability and more. NACC believes this information is vital to advancing justice for children — not just nationally, but also on the state and local level, where child welfare law practitioners are often called upon to join multidisciplinary reform efforts that must be grounded in detailed and accurate data sets. NACC submitted formal comments opposing these changes to the federal Administration for Children and Families.

Policy Request: If you are working on Title IV-E or another child law advocacy project, and you believe NACC can assist you in achieving your goals, please submit a request using our online form.

Amicus Request: The NACC Amicus Curiae Program promotes the legal interests of children through the filing of amicus curiae (friend of the court) briefs in state and federal appellate courts. We submit our own briefs and participate as co-amici in cases of particular importance to the development of law for children. To submit a request for the NACC to participate as amicus curiae in a case you are working on, please download and complete NACC Amicus Curiae Request Form.

NACC Office Hours: NACC is available to assist members hoping to leverage new federal funding opportunities to support child and parent representation in their states and counties. We are opening up virtual office hours July 15–23, 2019. Sign up now to reserve time to ask questions, request resources, and brainstorm next steps to get things moving in your jurisdiction.
NACC has Added Exciting New Member Benefits!

- NACC recently expanded content in our bi-monthly law journal, The Guardian, offering more practice tips, law and policy updates, and articles on resources relevant to your practice.
- NACC has launched free member-only webinars every other month. You can watch/listen any time to recordings of webinars held to date on our Member Webinar Page:
  - Family First Preservation Services Act
  - Title IV-E Funding for Legal Representation
  - Reasonable Efforts
  - Child Welfare and Poverty
- NACC members receive discounts on NACC’s Child Welfare Law Specialist Certification program.
- NACC members also receive access to NACC’s listserv and community discussions, and a special edition of our monthly newsletter The Advocate.

Build NACC’s Platform with a Platinum Membership

PLATINUM LIFETIME

When you renew your membership at the Platinum level, you receive all NACC member benefits for life! No notices, no renewals, just continued uninterrupted benefits. Lifetime Platinum Memberships cost $2,500 and may qualify in whole or in part as a business deduction or charitable contribution (please see your tax advisor for more information).

Help build NACC’s platform with a Platinum Membership. 2019 is an important year to become a Platinum Member to support the launch of NACC’s 2019–2023 Strategic Plan and accelerate our impact across the country.

Profile Update Reminder

If you haven’t done so recently, please check your NACC Membership Profile and update it with your latest information and preferences. We have many NACC members and website visitors searching our directory looking for experts and networking opportunities.

Upcoming Member Webinar


Presented by: Amy Harfeld, JD, National Policy Director & Senior Staff Attorney, Children’s Advocacy Institute

Tuesday, July 16
11:00 am MST/1:00 pm EST

Click here to register!

Would you like to share something with the NACC Membership? Send it to us! Forgot your username or password? It happens! Contact Membership@NACCchildlaw.org for a reset.
THANK YOU to our Platinum Lifetime, Gold, and Silver Members!

**PLATINUM LIFETIME**
- Candace Barr
- Donald Bross
- Irma Carrera
- Amanda Donnelly
- Leonard Edwards
- Donna Furth
- Gerard Glynn
- Charles Masner
- Kathleen McCaffrey
- Henry Plum
- Janet Sherwood
- Yve Solbrekken
- Cynthia Spencer
- John Stuemky
- Smith Williams

**GOLD**
- Elizabeth Armstrong
- Nadine Bailey
- Meredith Baker
- Kathryn Banks
- Petra Benavides Schwartz
- Bruce Boyer
- James Cargill
- John Ciccoletta
- Robert Clark
- Lily Colby
- Jonathan Conant
- Jami Crews
- Jessica Elam
- Robert Fellmeth
- Alicia Fortson
- Marle Galvez
- Joseph Gunn
- Josh Gupta-Kagan
- H.D. Kirkpatrick
- Angela Kohel
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- Lisa Rutland
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- Otha Nelson
- Kathryn Newell
- Kafahni Nkrumah
- Ana Novoa
- Ann O’Connor
- Megan O’Connor
- Jane Okrasinski
- James Ottesen
- David Patton
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- DeVonna Ponthieu
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- Amanda Sherwood
- Cheryl Smith
- Tiffani Smith
- Olivia Sohmer
- Sasha Stern
- Patrick Stocks
- J. Nichole Tucker
- Michael Valverde
- Laura Van Zandt
- Charles Vaughn
- Orna Velasco-Rodriguez
- Judy Webber
- Mandy White-Rogers
- Vicki Wiley
- Christopher Wirth
Join Us at the CWLS Reception in Anaheim!

All certified CWLS and CWLS applicants are invited to join us for an evening reception on Sunday, August 25th from 5:30pm to 7:00pm. Come celebrate your achievement, enjoy the special recognition you deserve, and get to know one another before the conference ramps up.

CWLS Certification is Now Available in Illinois and Maryland!

NACC is now able to offer the CWLS credential to attorneys in these additional states! Take a look at our CWLS Certification page to learn more about the program, review the standards, and request an application. Contact Certification@NACCchildlaw.com with your questions.

Schedule Your CWLS Exam

Don’t procrastinate on scheduling your exam! All current applicants have been sent instructions for scheduling your exam and downloading the software. If you have any questions regarding this process, please don’t hesitate to contact us at Certification@NACCchildlaw.org and check out our Exam Details webpage and FAQs.

2019 CWLS Application Pricing

NACC Members - $375
Non-Members - $500

The application fee includes the exam and a copy of Child Welfare Law and Practice, 3rd Edition (the Red Book).

Congratulations to these new CWLS!

Jolene Clearwater, JD, CWLS
48th Circuit Court - Family Division
Allegan, MI

Anna Rak, JD, CWLS
Children’s Law Center of California
Monterey Park, CA

Camille Wight, JD, CWLS
Utah Office of the Guardian ad Litem and CASA
Logan, UT
See You in Anaheim
for the 42nd NATIONAL CHILD WELFARE LAW CONFERENCE AUG 26–28, 2019 #NACC2019

Please join us as we support a national community of attorneys, judges, social workers, CASAs, health professionals, and other children’s advocates at our 42nd National Child Welfare Law Conference. For three days, this special community gathers to continue their education, improve their skills, and find inspiration and renewed commitment to their work. Over 700 professionals from across the country attend NACC’s conference and our goal is to provide attendees a high-quality experience that motivates effective advocacy for children and families.

The Hotel
The conference will be held August 26–28, 2019 at the Anaheim Marriott Hotel, just down the street from Disneyland. NACC’s hotel rate of $169.00 single or double begins Friday, August 23, 2019.

Pre-Conference*
Sunday, August 25, 9:00–4:30
Red Book Training, 3rd Edition
Betsy Fordyce, JD, CWLS · Rocky Mountain Children’s Law Center

This course covers the major dependency competency areas based upon the 3rd Edition of Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases (known as the “The Red Book”) and prepares attendees for the NACC Child Welfare Law Specialist certification exam.

2019 Lunch and Learn*
Monday, August 26, 12:00–1:45
Human-Centered Design
Jessica Mason · Founder and CEO, The Social Impact Studio, Boston MA

What if the child welfare system served families as quickly and efficiently as Amazon? With as much joy and delight as Disney? These organizations and the services they offer were explicitly designed to meet the fundamental interests, needs, and desires of the people who use them. How might we take the same approach to better serve children and families? This approach — Design Thinking — is spreading like wildfire across sectors.

*SEPARATE REGISTRATION AND FEE REQUIRED for these sessions. Add the Red Book Training or Lunch and Learn to your registration or email Conference@NACCchildlaw.org.

Group Discounts
Discounts for groups of 3 or more are available. Registering your team is quick and simple when you fill out this group registration form and email it back to Conference@NACCchildlaw.org.

Sponsor / Exhibit / Advertise
We have a few SEA opportunities left! Attendance is expected to reach over 700 attorneys, judges, social workers, and other child welfare advocates as our conference continues to grow each year. You can find the SEA application here.

Conference Raffle
As we gear up for our time in Anaheim, we’re helping our conference attendees get ready as well. Registrants will be randomly selected to receive a small “Welcome to Anaheim” gift package! Congratulations to raffle winners Jennifer Spangenberg, Dafna Gozani, and Alana Minton!

View the eBrochure for this year’s incredible agenda!
NACC Training Program

Child welfare law is perhaps one of the most challenging specialties in the American legal system. In order to be effective advocates, attorneys must develop extensive knowledge and skill in federal and state law, local practice and procedure, as well as countless collateral issues that affect families involved with the child welfare system. But high-quality legal representation requires more than just knowledge and skill — it also requires practice. NACC is dedicated to assisting attorneys in developing their knowledge and skills and putting them into practice through its training program. NACC utilizes an array of training techniques and modalities to attend to different learning styles. Below is a list of our current offerings.

The Red Book Training: Child Welfare Law and Practice

The Red Book Training is NACC’s signature training. It follows NACC’s publication, Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases. It provides a general overview of the federal legal framework, the child welfare legal process, roles and duties of legal counsel as well as courtroom advocacy in child welfare court proceedings. The training has been delivered to attorneys and judges across the country and is consistently praised for providing valuable information on a broad array of pertinent topics in child welfare law, in addition to preparing attorneys and judges to take the Child Welfare Law Specialist certification examination. The Red Book Training is available as a one-day, live, in-person training, or online through a series of webinars — see below for more information.

Customized Training

NACC works with states and local jurisdictions to customize trainings that cover the intersection of federal and state law and practice. Most importantly, we want to work with you — to meet your specific needs in your jurisdiction. Let us know what trainings and topics would help elevate legal practice in your state and NACC will work with you to custom-design live and/or online trainings to support high-quality legal representation in your community.

Statewide Training Partnerships

Got a statewide conference? NACC is interested in talking to you about adding or complementing your conference with a one-day live Red Book Training.

Contact Training@NACCchildlaw.org for more information.

Red Book Training (Live)

NACC will again be offering its annual pre-conference Red Book Training in Anaheim on August 25, 2019. Start your conference a day early by spending a day with attorneys from around the country studying the 3rd edition Red Book and learning important competencies in child welfare law and practice. Register now (seats are limited to 100 participants)!

Fall Red Book Training Course

September 18, 2019 through December 4, 2019

NACC will be delivering the Fall Red Book Training Course online starting in September. Save the date and register now for our fall course!