

# High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost Savings

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## I. Introduction

Improving legal representation and support for parents in child welfare proceedings results in better outcomes for children and families and can lead to substantial savings of government funds. Placing or keeping children in foster care who could safely remain or return home with appropriate services in place exacts tremendous costs on children, families, and public resources. Foster care is expensive—each year costing billions in federal, state, and local dollars.<sup>1</sup> Foster care placement can be traumatic for children and families and is associated with many poor life outcomes, including poverty, homelessness, and increased involvement with the criminal justice system.<sup>2</sup> Because foster care is not ideal for any child,

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1. Kerry DeVooght, Tiffany Allen & Rob Geen, *Child Trends, Federal, State, and Local Spending to Address Child Abuse and Neglect in SFY 2006* (2008), [http://www.childtrends.org/Files/Child\\_Trends-2009\\_02\\_17\\_FR\\_CWFinancePaper.pdf](http://www.childtrends.org/Files/Child_Trends-2009_02_17_FR_CWFinancePaper.pdf).

2. See, e.g., Joseph Doyle, Jr., *Child Protection and Adult Crime: Using Investigator*

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child welfare law has been built on the twin principles of limiting the possibility of removing children from their families to those children who are at imminent risk of suffering harm if kept at home and striving to return foster children to their families as quickly as feasibly consistent with the child's safety.

State and local jurisdictions that have invested in more effective parent representation have supported these twin principles by reducing the need for foster care placement and shortening the time it takes for children to successfully reunify with their families. For those families that cannot reunify, effective parent representation has significantly reduced the time children spend in foster care awaiting permanency. This article outlines the improved outcomes for children and families associated with high-quality representation for parents. The article also documents the cost savings demonstrated by some regional high-quality parent representation programs and explores the potential for tremendous savings. Although a large-scale and reliable national study on the impact of parent representation has yet to be completed, data from regional programs show the potential benefits, both financial and human, that quality parent representation can provide.

Section II of this article describes three different parent-representation programs and the effect they have had on child welfare outcomes: New York City's Center for Family Representation; Detroit's Center for Family Advocacy; and Washington State's Office of Public Defense Parent Representation Program. Section III discusses the human and financial costs associated with placing children in foster care. It analyzes the improved outcomes achieved in New York City, Detroit, and Washington State, and discusses how these achievements can translate into better life outcomes for children and families and reduced government expenditures. Section IV provides recommendations for expanding and evaluating parent representation programs and their impact on child welfare outcomes and budgets.

## **II. Parent Representation in New York City, Detroit, and Washington State**

In 2006, the American Bar Association House of Delegates approved Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases (Practice Standards). The Practice Standards are intended to promote quality representation and uniformity of practice for parents'

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*Assignment to Estimate Causal Effects of Foster Care*, 116 (4) J. POL. ECON. 746 (2008); Patrick Fowler & Paul Toro, Youth Aging Out of Foster Care in Southeast Michigan: A Follow-Up Study Final Report (2006) available at <http://sum.science.wayne.edu/~ptoro/WSU%20Aging%20Out%20Report.pdf>.

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attorneys in child abuse and neglect cases with the belief that when parents' attorneys do their job well they can make a positive difference in the lives of their clients and their clients' families.<sup>3</sup> The Practice Standards emphasize the importance of client-driven representation and attorney preparation and training. They highlight the need for parents' attorneys to work with clients outside of court to help them understand and engage in the court process, and to advocate for appropriate and meaningful services. Additionally, the Practice Standards advocate for using a multidisciplinary model of representation and stress the value of appointing attorneys for parents early—when a case first comes before the court, or before the first hearing.

Across the country, states, courts, and advocacy organizations have implemented parent representation programs in a variety of ways. Some programs are integrated into public defender or legal services offices, some are administered by the state or counties, and others are standalone programs run by independent nonprofits. Despite this variation, successful programs tend to adhere to the Practice Standards and share key features, including: appointment of parents' attorneys early in the case; interdisciplinary teams of attorneys and social workers; caseload and performance standards; and training, supervision, and support for parents' attorneys.

High-quality parent representation programs have improved permanency outcomes for children in foster care, while protecting statutory and constitutional rights of parents. The following section describes three programs that have achieved significant and documented improvements to permanency outcomes for the families they serve. The first two programs described, New York City's Center for Family Representation (CFR) and the Detroit Center for Family Advocacy (CFA), are independent nonprofits serving clients in an urban area. Each provides clients with a multidisciplinary team of an attorney, social worker, and parent advocate. Both provide representation during the child abuse investigation stage of the case. CFA represents clients exclusively during the child abuse investigation. CFR primarily represents clients after a petition to remove the child to foster care has been filed by the child welfare agency, but represents some clients during the child abuse investigation.

The third program covered in this section, Washington State's Office of Public Defense (OPD) Parents Representation Program, is a statewide system of parent representation. The program serves a mix of urban, rural, and suburban communities. It funds, trains, and supervises parents' attorneys throughout the state of Washington. Like CFR and CFA, OPD's parents' attorneys work with private social workers for the benefit of their

3. Mimi Laver, *Promoting Quality Representation Through Standards of Practice*, 26(1) CHILD L. PRAC. 1 (2007).

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clients. OPD attorneys represent clients after the filing of a petition to remove a child to foster care.

*A. Center for Family Representation (New York City)*

1. DESCRIPTION OF THE CENTER FOR FAMILY REPRESENTATION

The Center for Family Representation (CFR) is a nonprofit organization based in Manhattan, New York, whose mission is to provide families in crisis with free legal assistance and social work services that enable children to stay with their parents safely whenever possible. CFR was founded in 2002, in response to a crisis in the representation of parents in child welfare proceedings in New York City. Historically, attorneys who represented parents in child-welfare proceedings in New York City were attorneys on an assigned-counsel panel working without the benefit of social work assistance. Attorneys were leaving the practice because of inadequate compensation.

Initially, CFR primarily provided technical assistance and training for parents' attorneys. At the same time, CFR developed an interdisciplinary model of representation to better serve families in child welfare cases. With foundation and individual donor support, CFR was able to demonstrate the benefits of smaller attorney caseloads and the interdisciplinary model of representation. CFR advocated for the city to fund multidisciplinary institutional parent-representation programs. In response, the city government created a competitive grant program for parent representation in the city, based on CFR's model. CFR applied and received a grant to represent parents in Manhattan and now represents over 80% of the parents involved in child welfare proceedings in Manhattan. Most recently, CFR was awarded a second contract to represent approximately 50% of the parents in dependency cases in Queens, New York. CFR has expanded its training programs and now provides training on its model throughout New York as well as in other states.

Every parent represented by CFR is served by a CFR Community Advocacy Team, which includes a social worker, parent advocate, and attorney. A parent advocate is a parent who has been involved in the child welfare system herself and has successfully reunified with her children. In some cases, CFR sometimes begins representing parents during the child abuse investigation and before the filing of a petition to remove the client's child to foster care. The funding for precourt work is primarily from foundations and individuals as well as a state grant.

CFR legal and social work staff work aggressively on behalf of clients through employment of CFR's unique Cornerstone Advocacy model of

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representation to achieve the quick and safe reunification of children in care.<sup>4</sup> In addition to ensuring that parents have advocates and supports at postremoval conferences, the Cornerstone Advocacy approach also directs legal and social work advocacy to finding placement options that support a child's connection to family and community, supporting visiting arrangements that allow parents to see children as often as possible under conditions that mimic normal family life, and creating service plans tailored to parents' strengths as well as their needs.

The CFR team works with the parent through the entire life of the child welfare case, which typically lasts an average of two years, and continues to support the parents postreunification, to ensure that parents remain connected to all the services needed for the family to remain stable and safe. Since its founding in 2002, CFR has served more than 3,000 clients with more than 6,000 children.<sup>5</sup> Ninety-five percent of CFR's clients are people of color and 80% of families represented by CFR are headed by a woman.<sup>6</sup>

## 2. IMPROVED OUTCOMES ACHIEVED BY CFR

CFR's model has resulted in fewer children entering foster care and increased rates of reunification and improved case resolutions for those children who do enter care. CFR now represents the majority of parents appearing in child welfare cases in Manhattan. CFR's representation in those cases begins when the dependency petition is filed. Data tracked from 2007 shows that more than 50% of children of CFR clients avoided foster-care placement all together.<sup>7</sup> Where foster care could not be avoided, the project's median length of foster care was just 2.2 months compared to a statewide average of nearly two and a half years.<sup>8</sup> Preliminary

4. Cornerstone Advocacy is a practice approach created by CFR in 2004, aimed at speeding reunification. When children are in care, Cornerstone Advocacy devotes intensive work in four areas: Placement options that support a child's connection to family and community; Service plans that are not duplicative or burdensome and that truly build on a family's strengths; advocacy at Conferences convened by the child welfare agency and foster-care agencies to keep the case progressing; and Visiting arrangements where families separated by foster care spend as much time as possible with as little supervision as is necessary, out of an agency whenever possible and doing activities that mimic family life. CFR has provided training and technical assistance on the Cornerstone Advocacy approach throughout New York State and in Pennsylvania, Vermont, Georgia, Iowa, Washington State, and Michigan. See Jillian Cohen & Michele Cortese, *Cornerstone Advocacy in the First 60 Days*, 28(3) CHILD L. PRAC. 1 (2009).

5. CENTER FOR FAMILY REPRESENTATION, OUR RESULTS, [http://www.cfrny.org/new\\_legal.asp](http://www.cfrny.org/new_legal.asp) (last visited Feb. 9, 2012).

6. *Id.*

7. *Id.*

8. *Id.*; New York State Office of Children and Family Services, Facts About Children in Foster Care in New York (2011), [http://www.hunter.cuny.edu/socwork/nrcfcpp/info\\_services/state/New\\_York.pdf](http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/state/New_York.pdf).

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data indicates that CFR has a re-entry rate of approximately 1%, which very favorably compares with a statewide foster-care reentry rate of 15%.<sup>9</sup> In one year, more than one-third of CFR's cases (33%) were dismissed against parents, often pursuant to a section of the child welfare statute that permits a court to rule that the family no longer needs services. This is three times as many cases as were typically dismissed in Manhattan prior to CFR becoming the primary institutional provider for parents.<sup>10</sup>

CFR's services cost approximately \$6,000 per family over the entire life of the case, a sum that is vastly less expensive than a single year of foster care for a single child, which in 2010 was minimally \$29,000 per child per year and which can be as much as \$66,000 per child per year.<sup>11</sup>

Furthermore, CFR's model likely reduces the costs involved in adjudicating child welfare cases in Manhattan. Although CFR has not specifically tracked case outcomes in terms of continuances, CFR's attorneys have anecdotally reported that they have fewer continuances as a result of attorneys being unprepared.<sup>12</sup> And the dismissal rates discussed above clearly suggest that cases that do not require extensive litigation are dismissed from the court's calendar at a significantly better rate. The judges in Manhattan's child welfare cases, when discussing the cases with CFR involvement, state that because CFR's attorneys know the facts of their cases better and propose solutions to the court, court orders are better tailored to meet the needs of the families.<sup>13</sup>

### *B. The Detroit Center for Family Advocacy*

#### 1. DESCRIPTION OF THE DETROIT CENTER FOR FAMILY ADVOCACY

The Detroit Center for Family Advocacy (CFA) opened in 2009 with a focus on serving residents in the Osborn neighborhood of Detroit, Michigan. The Osborn neighborhood has one of the highest rates of

9. See Office of Children & Family Services, Statewide Re-entry Rate (2010), [http://www.ocfs.state.ny.us/main/cfsr/cfsrdata/Statewide/P7\\_Reentry\\_within\\_1yr\\_of\\_exit.pdf](http://www.ocfs.state.ny.us/main/cfsr/cfsrdata/Statewide/P7_Reentry_within_1yr_of_exit.pdf).

10. CENTER FOR FAMILY REPRESENTATION, OUR RESULTS, [http://www.cfrny.org/new\\_legal.asp](http://www.cfrny.org/new_legal.asp) (last visited Feb. 9, 2012).

11. See NYS Office of Family and Children's Services, Ten for 2010 (2010), [http://www.ocfs.state.ny.us/main/reports/vera\\_tenfor2010.pdf](http://www.ocfs.state.ny.us/main/reports/vera_tenfor2010.pdf). This states that the foster boarding rate is \$29,000 a year per child, which is the least expensive form of foster care; congregate (residential) foster care can cost \$66,000 a year per child. Additionally, a recent report by the New York City Independent Budget Office found that the average annual spending per child in foster care is \$49,188. New York City Independent Budget Office, A Changed Emphasis in City's Child Welfare System: How Has a Shift Away from Foster Care Affected Funding, Spending, Caseloads?, (2011), <http://www.ibo.nyc.ny.us/iboreports/childwelfare101211.pdf>.

12. Telephone Interview with Susan Jacobs, Executive Director, Center for Family Representation (Apr. 8, 2011).

13. *Id.*

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removal of children to foster care in the state of Michigan.<sup>14</sup> It has a majority African-American population of 84%, a white population of 9%, and an Asian population of 4.2%.<sup>15</sup> Approximately a quarter of the families in Osborn live in poverty, and more than a third of the children in Osborn live in poverty. More than 30% of families in Osborn are headed by a single parent.<sup>16</sup>

CFA represents families during the child protection investigation. CFA helps at-risk families access legal tools to protect their own children. The CFA team of a lawyer, social worker, and parent advocate use legal mechanisms—such as guardianships, child custody or personal protection orders, education and landlord-tenant advocacy—to allow parents or their family members to provide for their children without the need for foster care or dependency-court interventions. CFA’s model of using private law remedies to keep children safely with their families is unique in the child welfare field.

The Michigan Department of Human Services and others in the community refer cases to CFA. Each member of the multidisciplinary client team has a specific role. The attorney guides parents through complex laws and procedures, providing courtroom advocacy, client counseling, and follow-up support, as needed. The social worker helps parents access appropriate services in the community. The parent advocate offers support and advice to parents as they navigate the child welfare system.

## 2. IMPROVED OUTCOMES ACHIEVED BY CFA

Since opening its doors in 2009, CFA has served approximately fifty families during the child protection investigation. In 100% of those cases, the case closed with children residing with a permanent family outside of the child welfare system.<sup>17</sup> The CFA team helped prevent the need for foster care placement for 112 children in less than two years.<sup>18</sup> The most common legal issue that the CFA team helped clients resolve was housing, eviction, and landlord-tenant disputes.<sup>19</sup>

14. Detroit Center for Family Advocacy, Osborn Neighborhood, <http://www.law.umich.edu/centersandprograms/ccl/cfa/Pages/default.aspx> (last visited Feb. 9, 2012).

15. *Id.*

16. *Id.*

17. Telephone Interview with Vivek Sankaran, Director, Detroit Center for Family Advocacy (Oct. 19, 2011).

18. *Id.*

19. *Id.*

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*C. Washington State Office of Public Defense,  
Parents Representation Program*

1. DESCRIPTION OF THE WASHINGTON PARENTS REPRESENTATION PROGRAM

The mission of the Washington State Office of Public Defense (OPD) is to implement the constitutional and statutory guarantees of counsel and to ensure the effective and efficient delivery of indigent defense services funded by the state. The OPD Parents Representation Program provides state-funded attorney representation to indigent parents in dependency and termination cases. Key elements of the OPD Parents Representation Program include: case load limits (OPD sets the full-time maximum case-load at eighty open cases per attorney) and professional attorney standards; access to expert services and program social workers; OPD oversight of attorneys; and ongoing training and support.

The OPD Parents Representation Program began in 2000 to address severe disparities between state funding for the attorney general's office for the initiation and processing of child welfare cases as compared to funds provided by counties for the legal representation of indigent parents. A 1999 investigation revealed that the state spent nearly three times as much, on average, for agency attorneys per case than county-funded parents' attorneys were paid per case.<sup>20</sup>

In 2000, OPD sought a legislative appropriation to create an innovative state-funded enhanced parent representation pilot program. The legislature appropriated \$500,000 to help fund the pilot program, which also relied upon existing county funding. The pilot targeted funds to one urban county and two rural counties with the goal of improving the quality of parent representation, reducing delays in court proceedings, and increasing compensation levels for parents' attorneys.

Since 2000, the legislature has continuously reappropriated funding for the program.<sup>21</sup> It has expanded from serving three counties to two-thirds of the state's counties. A recent evaluation of the program found that 5.7% of the families served were Native American, 10.4% were African American, and 16.7% were Hispanic.<sup>22</sup> Census data for 2010 shows that

20. Bobbe J. Bridge & Joanne I. Moore, *Implementing Equal Justice for Parents in Washington: A Dual Approach*, JUV. & FAM. CT. J. 31, 32 (2002), available at <http://www.ncjfcj.org/images/stories/dept/ppcd/pdf/JOURNALPPIssueII/fall02-impleequaljust-bridge-moore.pdf>.

21. Washington State Office of Public Defense, Parents Representation Program History, <http://www.opd.wa.gov/ParentsRep/P-history.HTM>.

22. Mark Courtney, Jennifer Hook & Matt Orme, Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care (Feb. 2011), <http://partnersforourchildren.org/pocweb/userfiles/PRP%20Discussion%20Paper.pdf>.

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in Washington 1.5% of the population is American Indian, 3.6% is African American, and 11.2% is Hispanic or Latino.<sup>23</sup>

## 2. IMPROVED OUTCOMES ACHIEVED BY THE WASHINGTON PARENTS REPRESENTATION PROGRAM

The OPD Parents Representation Program has been evaluated several times throughout its history. Evaluations have consistently found that the program is succeeding in meeting its goals and has achieved better outcomes for children, including increased family reunifications, fewer reunification failures and case re-filings, reduced time to all permanency outcomes, continuance reductions, improved case participation by parents, and better access to services.<sup>24</sup> For example, a 2010 program case audit found a 39% increase in the rate of reunification.<sup>25</sup>

The most recent and comprehensive evaluation examined the program's earlier permanency impacts for over 12,000 children in foster care from 2004 to 2007. This evaluation shows that the OPD Parents Representation Program significantly increases the rate at which children reach permanency and shortens the time to permanency for children in foster care for all permanency outcomes.<sup>26</sup> There was an 11% increase in the rate of reunification in OPD counties, as compared to counties without OPD. There was a 104% increase in the rate of adoption, and an 83% increase in the rate of guardianship.<sup>27</sup> When researchers converted these rates into real time, the results are striking—the 11% improvement in the rate of reunification translates into 27 days or almost one month less time a child spends in foster care.<sup>28</sup> The majority (68%) of children in the evaluation sample who attained permanency reunified with parents.<sup>29</sup> For

23. U.S. CENSUS BUREAU, STATE AND COUNTY QUICK FACTS (2010), available at <http://quickfacts.census.gov/qfd/states/53000.html>.

24. See, e.g., Jason Oetjen, Improving Parents' Representation in Dependency Cases: A Washington State Pilot Program Evaluation (2003), [http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/watabriefcolorfinal\[1\].pdf](http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/watabriefcolorfinal[1].pdf); Carol J. Harper, Kathy Brennan & Jennifer Szolonki, Dependency and Termination Parents' Representation Program Evaluation Report (2005), available at <http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/2005%20Evaluation%20Report.pdf>.

25. OPD Report, audited by the Washington Center for Court Research, Reunification and Case Resolution Improvements in Office of Public Defense Parents Representation Program (2010), [http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/100325\\_ReunificationOutcomes.pdf](http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/100325_ReunificationOutcomes.pdf).

26. MARK COURTNEY, JENNIFER HOOK & MATT ORME, EVALUATION OF THE IMPACT OF ENHANCED PARENTAL LEGAL REPRESENTATION ON THE TIMING OF PERMANENCY OUTCOMES FOR CHILDREN IN FOSTER CARE (2011), <http://partnersforourchildren.org/pocweb/userfiles/PRP%20Discussion%20Paper.pdf>.

27. *Id.* at 4.

28. In 2001, the average time to reunify was approximately 244 days, 11% of which is 26.84 days or nearly one month. *Id.*

29. *Id.*

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those children and families who could not achieve reunification, adoptions and guardianships in OPD counties were accelerated by approximately one year.<sup>30</sup>

Shortening the time to all permanency outcomes, including adoption and guardianship, by improving parent representation may seem counter-intuitive. However, court administrators, attorneys, and agency caseworkers in Washington State observe that OPD implemented practice standards contribute to more efficient and effective case processing.<sup>31</sup> Additionally, reduced caseloads enable attorneys to meet with their clients and prepare their cases in advance of court dates. Attorneys communicate regularly with clients and act as a “counselor at law” throughout the case.<sup>32</sup> They are able to establish rapport with parent clients early in the case. Parents are more willing to engage in services and work with their agency caseworkers, so there are fewer terminations.<sup>33</sup> When families cannot reunify, OPD attorneys advise clients about adoption with contact and guardianship possibilities, and work to negotiate those outcomes. Cumulatively, these improvements tend to explain how the length of time to all permanency outcomes was shortened.

### III. Improved Permanency Outcomes and Potential Savings

#### A. Summary of Regional Evaluation Results

Each of the three enhanced parent representation programs described above achieved similar improved outcomes for children and families involved in the child welfare system. In general, regional evaluations of the enhanced parent representation programs found that: (1) providing parents with quality representation reduces the time that children spend in foster care and leads to quicker permanency for children across all permanency outcomes; (2) providing parents with quality representation leads to faster and more successful family reunifications; and (3) provid-

30. *Id.* At first look, the improved time to permanency associated with PRP appears more striking when looking at the adoption and guardianship timelines. However, the decrease in time to reunification affects more children because most children achieving permanency, reunify. Also, because reunifications happen more quickly (taking an average of 244 days prior to PRP involvement) as compared to adoption (902 days) and guardianship (704 days) there is less room to decrease time in care.

31. Joanne Moore, Washington State Office of Public Defense Comments on the Parent Representation Program and Earlier Permanency (2011), [http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/110311\\_OPDCmmntsonPRPandEarlyPermanency.pdf](http://www.opd.wa.gov/Reports/Dependency%20&%20Termination%20Reports/110311_OPDCmmntsonPRPandEarlyPermanency.pdf).

32. The OPD Parents Representation Program holds attorneys accountable for meeting with clients outside of court. Attorneys are required to account for their time spent with clients on both in-court and out-of-court activities.

33. Moore, *supra* note 31.

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ing parents with representation during the child protective services investigation reduces the need for foster care placement. The remainder of this paper will focus on cost savings associated with the regional findings that providing enhanced representation to parents can reduce the number of children entering foster care and for those children that do enter foster care, can shorten their time to permanency.

*B. Potential Human and Financial Benefits Associated with Regional Findings*

Placing or keeping children in foster care who could safely remain or return home with appropriate services in place exacts tremendous costs on children, families, and public resources. Foster care is expensive. Each year billions in federal, state, and local dollars are used to support foster care.<sup>34</sup> Foster care placement is not ideal for any child and is associated with many poor life outcomes. This section will explore some of the “human costs” of extended foster care placement—those costs that cannot be easily quantified. Additionally, this section will summarize some of the hard costs of extended foster care placement and discuss why quality parent representation programs are a cost-effective alternative.

1. HUMAN COSTS ASSOCIATED WITH EXTENDED FOSTER-CARE PLACEMENT

Professionals and families involved in the child welfare system have long known that removing a child from his or her family is traumatic and that foster care does a poor job of preparing children for adulthood. For this reason, child welfare law has been structured, through federal law incentives, to limit removal of children from their homes to situations in which the provision of services cannot keep the child safe from serious harm, as well as to encourage the delivery of services that promote children’s reunification with their family.<sup>35</sup>

New research powerfully supports these goals. This research shows that children often have better life outcomes when they are able to stay with their parents, even when the care they receive with their parents may meet the statutory definition of abusive or neglectful. A researcher at Massachusetts Institute of Technology looked at ten years of data related to over 15,000 children coming into contact with the child welfare system in Illinois.<sup>36</sup> The researcher compared outcome results for children in “marginal cases” (those cases where social workers disagree about the

34. See, e.g., KERRY DEVOOGHT ET AL., CHILD TRENDS, FEDERAL, STATE, AND LOCAL SPENDING TO ADDRESS CHILD ABUSE AND NEGLECT IN SFY 2006, at iv (2008).

35. Adoption and Safe Families Act of 1997, Pub. L. No. 105–89, § 107 (1997).

36. Joseph Doyle, Jr., *Child Protection and Child Outcomes: Measuring the Effects of Foster Care*, 97(5) AM. ECON. REV. 1583 (2007).

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necessity of out-of-home placement) who were removed from their homes and placed in foster care versus those children in marginal cases who were allowed to remain at home with their parents.<sup>37</sup> Analysis showed that children who remained at home with their families fared better than those children removed from their parents' care across the following domains:

- Juvenile Justice—Children placed in foster care are approximately three times more likely to be involved in the juvenile justice system than similarly situated children left in their own homes.<sup>38</sup>
- Teen Pregnancy—Girls placed in foster care are more likely to become teen mothers than similarly situated children left in their own homes.<sup>39</sup>
- Employment—Children placed in foster care are less likely to hold a job as young adults for at least three months than similarly situated children left in their own homes.<sup>40</sup>

The same researcher at Massachusetts Institute of Technology looked at 23,000 children coming into contact with the child welfare system in Illinois.<sup>41</sup> The researcher again compared outcomes for children in marginal cases who were removed from their homes and placed in foster care, versus those children in marginal cases who were allowed to remain at home with their parents. Looking specifically at how foster care placement might affect an adult's involvement with the criminal justice system, the study found that children who were placed in foster care had a two to three times higher arrest, conviction, and imprisonment rate than similarly situated children who remained at home with their families.<sup>42</sup>

Additionally, children who “age out” or “emancipate” from the foster care system without having found permanency often do not fare well in adulthood. A number of studies have found that former foster youth suffer from high rates of homelessness, poverty, and incarceration. Researchers in Michigan found that former foster youth experience literal homelessness (living at least one night on the streets, in an abandoned building, in a car, or in a shelter for the homeless) eight times more than the general population.<sup>43</sup> The same study revealed that 70% of the former

37. *Id.* at 1584.

38. *Id.* at 1599.

39. *Id.* at 1599–1601.

40. *Id.* at 1601–02.

41. Doyle, *supra* note 2, at 752–53.

42. *Id.* at 748, 766.

43. Fowler et al., *supra* note 2. Researchers in Michigan surveyed 264 youths who “aged out” of foster care in southeast Michigan during calendar years 2002 and 2003. “Aging out” was defined as leaving foster care because the youth reaches the age of majority or some other age-

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foster youth evaluated reported average incomes below the Poverty Income Guideline, compared to 30% of eighteen- to twenty-four-year-olds nationally.<sup>44</sup> Almost half of the surveyed former foster youth received some form of public assistance since leaving foster care.<sup>45</sup>

Sometimes former foster youth transition out of foster care only to become involved with the criminal justice system. Former foster youth report significantly higher levels of criminal justice system involvement than their peers in the general population. Researchers in Michigan found that 27% of former foster youth spent time in jail since leaving foster care (eight months on average).<sup>46</sup>

Another “human cost” of foster care is the overrepresentation of children of color in the foster care population. For some children, where they live may place them at greater risk of growing up in foster care. Children living in large urban communities are more likely to enter foster care and less likely to reunify with their families, than children in non-urban communities. Reviewing nine years of caseload data, from 1990 through 1999, and comparing placement rates and length of foster care stays for children in large urban counties, as compared to children in non-urban counties, researchers found that children in large urban counties have a higher rate of entry into foster care and stay in foster care longer.<sup>47</sup> Moreover, children in large urban communities are less likely to reunify with their families and more likely to be adopted.<sup>48</sup> These disparities are even greater when race is considered.<sup>49</sup>

## 2. HARD COSTS ASSOCIATED WITH EXTENDED FOSTER-CARE PLACEMENT

Maintaining a child in foster care is expensive. A combination of state, county, and federal resources are used to fund: (1) monthly foster care maintenance payments; (2) Medicaid costs; (3) social worker and service provider salaries; and (4) administrative costs associated with foster care

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related criterion. Researchers followed-up with youth an average of 3.6 years since they had left foster care. The purpose of the study was to assess the functioning of youth across various domains of life since leaving foster care.

44. *Id.*

45. *Id.*

46. *Id.*

47. FRED WULCZYN & KRISTEN BRUNNER HISLOP, CHAPIN HALL CENTER FOR CHILDREN IN FOSTER CARE AT THE UNIVERSITY OF CHICAGO, DYNAMICS IN URBAN AND NON-URBAN COUNTIES, 12, 18, 19 (2003).

48. *Id.* at 26.

49. *Id.* at 32. *See also* CENTER FOR THE STUDY OF SOCIAL POLICY, RACE EQUITY REVIEW: FINDINGS FROM A QUALITATIVE ANALYSIS OF RACIAL DISPROPORTIONALITY AND DISPARITY FOR AFRICAN AMERICAN CHILDREN AND FAMILIES IN MICHIGAN’S CHILD WELFARE SYSTEM, at iii (2009) (noting that African-American children are disproportionately represented in the child welfare system, researchers found “a lack of basic resources in [African-American] communities and problematic allocation of existing resources by county and state leaders”).

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placement, including determining a child's eligibility for federal support of the placement. In addition, there are hard costs associated with the court process and legal procedures that must be followed when a child is placed and maintained in foster care—judge, clerk, and attorney compensation and funding to maintain the physical courtroom. Effective parent representation programs that reduce the number of children entering foster care by enabling families to safely maintain their children at home, and shorten the length of time that children spend in foster care by shortening the time it takes children to achieve permanency will substantially reduce these hard costs.

#### **IV. Recommendations for Evaluating and Expanding High-Quality Parent Representation Programs**

There are many human costs for foster youth associated with foster care placement—increased involvement in the juvenile justice system, increased teen pregnancy, and increased unemployment. These costs may follow former foster youth into adulthood where they are more likely to be involved with the criminal justice system, experience homelessness, and live in poverty. Some children bear this burden more than others. Minority children living in large urban communities are more likely to be placed in foster care and are less likely to exit to permanency.

Findings from the evaluations of the regional enhanced parent representation programs seem to indicate that improved legal representation for parents can allay some of these “human costs” by helping to reduce the number of children who need foster care as a child welfare intervention, and for those children who do enter foster care, significantly shortening the time it takes for children to exit care. In addition, programs like the Detroit Center for Family Advocacy and New York City's Center for Family Representation can potentially reduce the disproportionate number of urban and minority children entering and remaining in foster care by targeting their services in those communities.

Regional evaluation findings also point to the conclusion that providing parents with high-quality representation can reduce the hard costs associated with extended foster-care placement. Some of those costs can include foster care maintenance payments, Medicaid, administrative costs, and court costs. Reducing those hard costs may also shape the human costs of foster care placement. Reducing the need for foster care placement should free-up child welfare agency resources to better serve those children who must be placed or remain in foster care—potentially having a positive effect on the human costs currently associated with foster care placement.

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Additional research and evaluation is needed to measure the impact of high-quality parent representation. Evaluations should look at the effect on foster care placement rates, permanency outcomes, and associated savings of government dollars. Additionally, a detailed assessment of the impact of quality legal representation for parents should attempt to quantify the effect that reduced use of foster care as a child welfare intervention has on some of the human costs of foster care, including whether providing parents with high-quality legal representation can reduce the disproportionate number of minority children in foster care.

There are many challenges to evaluating the effect of interventions in the context of child welfare. It is difficult and expensive to conduct a “random assignment” evaluation of the impact of parent representation programs. There can be issues with limited data, bias selection, and influence of concurrent interventions. That said, evaluation and evidence of efficacy are often necessary for program expansion.

Evaluations of regional parent representation programs show promising results. These results point to the necessity of further investigation and investment in order to better understand the impact of quality parent representation on child welfare outcomes and the associated cost savings. Federal, state, and local governments, and private foundations interested in improving efficiencies and outcomes in child welfare should invest in a comprehensive evaluation of the impact of high quality representation for parents. If funding for a comprehensive evaluation is not available, then monies should be used to support a cost/benefit analysis based on current findings from regional programs. Such analysis could leverage current available data to provide more insight to the child welfare community about the hard and human cost-savings associated with high-quality parent representation.

## V. Conclusion

Foster care is not ideal for any child, although it is necessary for some. Federal law recognizes this, requiring state child welfare agencies to use “reasonable efforts” to keep families safely together, if possible.<sup>50</sup> If a child is removed from his family, federal law prioritizes reunification with parents as the top permanency option and requires “reasonable efforts” to reach this goal. If children cannot reunify, reasonable efforts must be made to help them reach permanency through adoption, guardianship, or placement with a relative.

There is a lack of rigorously evaluated child-welfare interventions. This is especially true in the context of court interventions. There is cur-

50. Adoption and Safe Families Act of 1997, Pub. L. No. 105–89, 111 Stat. 2115, 2116.

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rently very little research related to child-welfare court interventions, in general, and parent representation programs, in particular, and their impact on child welfare outcomes.<sup>51</sup> Results from regional evaluations of parent representation programs indicate that providing parents with high-quality representation helps achieve the dual mandates of federal child welfare policy—keeping children safely at home when possible and helping children exit foster care to permanency as quickly and safely as possible. Regional evaluation results indicate the potential for substantial savings of hard costs and improved outcomes related to human costs. Because child welfare policy is driven by both human and hard costs, a comprehensive evaluation of quality parent representation programs' impact on both is needed.

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51. MARK COURTNEY, JENNIFER HOOK, & MATT ORME, EVALUATION OF THE IMPACT OF ENHANCED PARENTAL LEGAL REPRESENTATION ON THE TIMING OF PERMANENCY OUTCOMES FOR CHILDREN IN FOSTER CARE (2011), <http://partnersforourchildren.org/pocweb/userfiles/PRP%20Discussion%20Paper.pdf>.