



safe children | strong families | supportive communities

Rob Wyman
Attorney Consultant, Judicial Engagement Team
Casey Family Programs
Testimony before the Maine Commission to Develop a Pilot Program
to Provide Legal Representation to Families in the Child Protection System
August 1, 2022

Good morning, Senator Bailey, Representative Stover and members of the Commission. My name is Rob Wyman, and I am an Attorney Consultant with the Judicial Engagement Team at Casey Family Programs. Casey Family Programs is the nation's largest operating foundation focused on safely reducing the need for foster care and building communities of hope for children and families across America.

Casey Family Programs was founded in 1966 and has been providing, analyzing, developing and informing best practices in child welfare for 50 years. We work with child welfare agencies in all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and with 16 American Indian tribal nations, and with the federal government on child welfare policies and practices. We partner with child welfare systems, policymakers, youth and families, community organizations, national partners, philanthropy, American Indian and Alaska Native tribes, and courts to support practices and policies that increase the safety and success of children and strengthen the resilience of families. Our mission is to improve – and ultimately prevent the need for – foster care.

Casey's Judicial and National Engagement Team (JNE) was created in 2014 to build Casey's three-branch approach to child protection system improvement. The JNE team focuses on several priority strategic areas: judicial and lawyer leadership, high quality legal representation, strengthening the front door of the child protection court, and promoting Indian Child Welfare Act practices as the Gold Standard of child protection. The court is ultimately responsible for the placement of almost every child removed from parental custody, and therefore courts play a critical role in determining the path and outcomes for children and families involved with child protection. At JNE we advance the Foundation's mission by working with child protection courts to safely reduce the need for foster care.

Thank you for inviting me here today. I applaud the Commission for your interest in the development of a pilot program that will provide legal representation to educate, support, and empower families to build safety and avoid trauma and separation.

What is Preventive Legal Advocacy

Preventive legal advocacy for parents and children, especially through a multidisciplinary practice, is at its core an empowerment strategy. Legal teams provide education about the system, strategic thinking about solutions, connection to resources and services, and support

for families' interaction with the agency. The primary goal of preventive legal advocacy is the enhancement of the parent's and family's participation in assessing the safety of their children, connecting resources when needed to build safety, and to empower parents and families to meet the needs of their children and avoid deeper system involvement, trauma, and separation.

Families involved in the child protection system overwhelmingly experience life struggles connected to poverty and financial struggle. Preventive legal advocacy programs deliver legal services to families

Preventive legal advocacy is a broad term that encompasses many strategies that provide legal representation to families. Advocacy can mean policy and legislation, community organizing and building, and other efforts to create default access to social determinants of health. Preventive legal advocacy also can mean working with a family that is currently involved in the child protection court to prevent longer time in care and re-entry into the system. Mostly, preventive legal advocacy programs focus on serving families at risk of child protection involvement but have not experienced removal of their children or court involvement.

Families involved in the child protection system overwhelmingly experience life struggles connected to poverty and financial struggle. Preventive legal advocacy programs deliver knowledge (i.e. "know your rights" programs, and education about resources, systems, and child safety); legal advocacy that focuses on justice for families facing eviction, interruption in benefits like social security and health care, access to courts for protection, custody, and guardianship orders; and representation during acute investigations by child protection agencies. The lines dividing these features of preventive legal advocacy are not rigid, and many programs will engage in multiple aspects of the spectrum of advocacy.

Core values and principles of preventive legal advocacy

Families facing child protection system involvement experience extreme disparity of power in their interaction with the agency. They are often families at or near poverty, have little information about how the child protection system works (or are informed by very negative community perceptions), and often are or feel isolated and alone. Factors such as financial struggle, housing insecurity, heightened medical needs, under-resourced communities, lack of public safety, and poor education systems all contribute to and exacerbate individual struggles like mental illness, substance use disorders, relationship violence, and poor educational performance, which are often reasons families are reported to child protection. Research tells us that parents and children reported to child protection have unusually high incidents of trauma in their past, which is triggered and deepened by their engagement with the system. Families experiencing investigation by the child protection agency are reluctant to engage, share, connect with family and friends, and generally seek "help"; but instead, often further isolate themselves and withhold information in an effort to protect themselves and their children from being separated.

Preventive legal advocacy programs deliver multidisciplinary legal representation in a trauma informed approach to support families experiencing financial struggle and other impediments to safety and health in order to break down barriers to services, benefits, and protection, enabling

families the space and support they need to bring basic order to their lives and safety for their children.

Preventive Legal Advocacy aims to provide reduction of trauma, increase of child safety, and cost savings to jurisdictions.



Note: It appears from the Resolve establishing this Commission that the Maine legislature is focused on preventive legal advocacy that delivers advocacy and service to families facing investigation by CPS (the Red section, second to the right in the image above).

Overview of programs across the country

Preventive legal advocacy in the child protection arena is an emerging practice. As such, there is not a focus on clearly defined models, but instead the establishment of programs that identify and serve the values and principles outlined above. Leaders in the field advise identifying critical populations to be served, high quality, motivated multidisciplinary teams to serve them, and building a structure that enables good practice. Programs with those characteristics will develop their practice within an original scope, often expand their vision as the needs of their clients connect to issues beyond the original scope, and then become leaders in the conversations about how community and governmental systems can work together to fill gaps and enable greater support for families.

Some programs intend to serve a wide and general population of clients at risk of CPS and court involvement, while others target specific issues with a nexus to child protection and serve families experiencing those issues.

Referrals come from a variety of sources. Some programs are closely aligned with the agency and serve only families referred to the program by the agency (see Detroit Center for Family Advocacy, below). Others serve families referred by community agencies, hospitals, housing programs, etc. where there is a nexus between their legal needs and child protection involvement (See FIRST clinic, Boston Legal Services, and First Call for All, below). Almost all programs regardless of referral source conduct outreach to those neighborhoods, organizations, and service providers who serve the population of families the program also serves, to educate them about the legal needs of their common clients and the services the program offers.

Mostly, the attorneys, social workers, and parent mentors have experience in the system, representing parents in child protection cases in court, working for the child protection agency, or having experienced child protection as a parent/respondent. Where programs offer advocacy in legal systems other than child protection, programs will recruit attorneys with specialized experience (i.e. evictions, social security benefit denials, family law or protection orders, etc.), deliver a variety of legal services themselves as general practitioners, or associate with other legal service organizations that provide those services.

Examples:

The Detroit Center for Family Advocacy worked cooperatively with the agency to take referrals of families who, but for civil legal needs, the agency would seriously consider separating the family. The Detroit Center did not provide specific advocacy for the family in the investigation process, but instead solved other legal needs that allowed children to remain out of foster care, sometimes involving changes of custody to relatives. This was a project of the University of Michigan School of Law in partnership with the state child welfare agency.

- The client might be a parent, child, or relative.
- Services were delivered through multidisciplinary team of lawyer, social worker, and family advocate (parent with lived experience).
- Issues addressed were family law matters and protection orders, clearing warrants, housing and eviction advocacy, benefits and health care access, etc.
- The Center would only take a case if the legal issues to be addressed would allow the child to remain out of foster care or return to family.
- The Center represented children at risk of removal or needing help exiting foster care.
- Families were identified and referred by the agency, and referral to the Center was considered a “reasonable effort” to prevent removal or achieve the permanent plan.

The Children’s Law Center of California represents children in the child protection system. They identify the need for representation of their clients (currently involved children and youth) who become pregnant or are parenting to keep their children out of care and break the cycle of child protection involvement. CLC is a public child representation office.

- Referrals to CLC generally come from their ongoing caseload, whether by attorneys or case managers serving the client.

- Services are delivered by a lawyer and case manager team.
- They focus on non-minor Dependents and Parenting CSEC youth
- The team offers legal representation to secure safety for the parent and child as well as case management through social work practice.
- CLC is currently a part of a concentrated effort by Los Angeles County to significantly expand the availability of pre-filing representation to parents.

The Family Intervention Response to Stop Trauma (FIRST) Clinic in Everett, Washington provides representation for parents of substance exposed newborns who are facing a CPS investigation. This is a private family law firm that provides parent representation in dependency court, and the Clinic is a non-profit offshoot from the firm.

- Representation is delivered by a team of lawyers and a parent ally (a parent with lived experience).
- Services focus specifically on creating plans for keeping the parent and child together safely, although some other ancillary legal needs are met (usually family law and protection orders, some guardianships).
- The Clinic has become a leader in the area advocating for systemic changes to fill gaps that families with babies and substance use disorders face while trying to heal and keep their children safe – i.e. access to treatment, housing, concrete supports, etc.

Legal Services of New Jersey (LSNJ) Family Representation Project works with the county-level child welfare agency to help prevent removals due to housing instability to keep families together. This is a statewide legal services organization.

- Referrals come directly from CPS caseworkers and other concerned stakeholders.
- LSNJ helps clients with pending evictions, unpaid child support, domestic violence, immigration status concerns, welfare denials, housing voucher terminations and barriers to accessing medical care and education.
- Services are delivered through a multidisciplinary team of lawyers, social workers, and a parent ally mentor (parent with lived experience).

Greater Boston Legal Services, Domestic Violence Family Preservation Project works with low-income survivors of domestic violence who are referred to CPS due to an incident of domestic violence in the home when children were present.

- Legal representation to help the survivor work with the agency to build safety and maintain custody of their children.
- Also help with DV protection orders and Probate and Family Court cases.
- Referrals come from community partner organizations

First Call for Families, Dependency Advocacy Center in Santa Clara, California provides graduated levels of service for families in Santa Clara County seeking information, support, and advocacy to safely prevent the removal of their children.

- Services provided by multidisciplinary team – lawyer, social worker, mentor parents
- Know Your Rights information for families facing CPS investigation
- Warm Line – toll-free number for families to call for support, basic advice, and referrals within the community
- More involved support from the team prior to case being filed.

Funding strategies:

A variety of funding sources are used to support preventive legal advocacy programs across the country.

In 2018 the Administration for Child and Families, Children’s Bureau, changed its policy to allow States to draw federal Title IV-E funding to reimburse for parent and child representation (agency representation was already reimbursable). Again in 2021, Children’s Bureau reiterated this move, emphasizing that reimbursement can be provided not just for attorneys, but for the other members of the multidisciplinary legal team. Importantly, this reimbursement is allowed for legal services, including those provided by multidisciplinary teams, for children who are “candidates” for foster care and their parents, as well as for children in foster care. See ACYF-CB-IM-21-06

- The term “candidates” allows for the activities of some preventive legal advocacy programs to be part of a State’s submission for IV-E reimbursement.
- Of course, States and counties are free to use the money that comes back from the federal government through IV-E reimbursement to support any preventive legal advocacy programs – and many do.
- As of March 2022, there were 26 States receiving federal Title IV-E reimbursement for parent and child representation, and an additional 11 States “in-process” of doing so.
 - We do not have information regarding Maine drawing down Title IV-E fund for parent and child representation, and this may be a source of new funding to consider.

Many States offer technical assistance and seed funding for preventive legal advocacy programs through their Court Improvement Program (CIP) funding. CIPs are directed to support high quality legal representation, including to support safely preventing the need for removal of children. CIPs are used as a resource for strategic funding, technical assistance, training, and spread opportunities in the State.

Some States are supporting preventive legal advocacy development and operations through legislative appropriations. In 2021, the Washington State legislature responded to data and stories of the FIRST clinic, and provided approximately \$500,000 to the State Office of Public Defense (statewide parent representation office) to provide operating funds to the Clinic and to work on development of a pre-petition caseload standard and plans for spread.

County and City funds also have been used for preventive legal advocacy. For instance, in Los Angeles County a multi-agency, multidisciplinary PLA program is under development, and will use a variety of funds, likely including municipal and county funding.

Philanthropy is another source of funding used for operations, technical assistance, evaluation support, and supporting spread of programs. Casey Family Programs has provided technical assistance to several programs in their development.

Outcomes

Many jurisdictions around the country are employing, developing, or considering preventive legal advocacy programs because research and evaluation are showing significant benefits in terms of supporting families, reducing separation and trauma, and avoiding extensive and expensive court processes and foster care.

The Detroit Center for Family Advocacy reported that in 98.2 percent of their cases they achieved their legal objectives. That is, of the 110 children at issue in 55 prevention cases, petitions were filed as to only four children, and they were dismissed quickly. None of the 110 children entered foster care.

Similarly, Legal Counsel of New Jersey Parent Representation Program reports that they have “received more than 300 referrals from across New Jersey and no child in those cases have been removed.

The FIRST clinic is referred to parents by the hospital when the hospital makes a CPS referral due to the birth of a substance exposed newborn. Between July 2019 and November 2021, the clinic served 123 clients and they have been successful supporting the family to avoid removal and court involvement for almost 90% of their clients. From 2018 through 202 case filings (and likely removals) involving babies in Washington State dropped by 17%, but in Snohomish County where the Clinic is located, filings dropped by 37%. They continue to collect data and prepare further advocacy in the legislature to support expansion around Washington State.

Lessons Learned

Preventive legal advocacy is an emerging field of practice in the child protection system, and therefore research and evaluation will continue to develop. New programs are standing up on a regular basis around the country, with preliminary evaluations showing promise that they provide many of the benefits our child and family serving systems seek to accomplish. Additional and ongoing research and evaluation of these programs needs to continue to further clarify what about their features is most effective and to clarify the cost savings and trauma reduction they provide.

Building out research and evaluation will help programs secure funding through mainstream traditional sources that allow for growth and expanded benefits.

Relationships are dynamic and essential to the preventive legal advocacy program. These programs need champions in their communities who can carry the message of hope the programs offer. Relationships with the child protection agency are especially critical, whether the program seeks its referrals from the agency or not, and whether the program serves the family in their interactions with the agency or solely addresses other legal needs. The agency and preventive legal advocacy programs should be allies of one another, but this is only accomplished when each are led by strong and skilled people who can manage complex relationships.

Conclusion

Preventive legal advocacy programs operate under this basic principle: Expanding the provision of legal representation for parents to include multidisciplinary legal representation *prior* to removal and court involvement will reduce trauma, empower families to access resources that help them provide protection and safety for their children, eliminate unnecessary court involvement, and reduce deeper system involvement, trauma and the number of children being removed to foster care. This could be accomplished without an increase in the budget for parent representation, and possibly at a savings, when all the benefits of the representation are balanced against the costs of deeper system involvement. In short, preventive legal advocacy replaces long-term representation episodes (often 1-3 years) associated with a court case and children in care with short-term representation episodes (from hours to weeks) with little or no court involvement and costs, no foster care costs, and none of the costs associated with taking children into care.

There is a variety of sources of supportive funding to help jurisdictions get through the investment phase of starting a preventive legal advocacy program, as well as many non-profit and philanthropic organizations available to provide technical assistance, operational funding, policy advocacy, and community outreach. Casey Family appreciates this opportunity to offer information and experience with preventive legal advocacy programs and we are available to provide further information and assistance.

Thank you very much and I am happy to address any questions you may have.