INTRODUCTION

The U.S. Children's Bureau says one of the barriers to successful outcomes for children who come to the attention of the court in child welfare cases is a *lack of a trained and effective representatives*; someone to advocate for timeliness in agency and court handling of the child's case. Despite a widespread conviction that children ought to be independently represented in child abuse and neglect court proceedings, a national consensus has eluded us as to:

- *who* should represent the child,
- *what* should be the duties of that advocate, and
- *how* should effective child advocacy be organized and delivered.

Assessments of America's child welfare system regularly identify inadequate representation of children as a chief obstacle to achieving a well-functioning child welfare system. .

Since 1974 Federal law has required states to appoint a representative for the child in all child protection court proceedings. Legal scholars have written and debated about the role of the child advocate for several decades. National advocacy groups have pushed to improve child representation. There is even a national membership organization of mostly lawyers devoted to the professionalization of this child advocate role—the National Association of Counsel for Children. There are an estimated 50,000 to 75,000 lawyers engaged in child welfare legal cases in the U.S. Yet a consensus as to *who*, *what* and *how*, has eluded us—until now.

The central argument of this book is that using the National Quality Improvement Center on the Representation of Children in the Child Welfare System (QIC-ChildRep) Best Practice Model of Child Representation improves lawyers' approach to representing children and results in measurable improvements in case outcomes for some children.

This book discusses a challenge put forth by the U.S. Children's Bureau and duly accepted by the Child Advocacy Law Clinic at the University of Michigan Law School. In October 2009, the **U.S. Children's Bureau** named the **University of Michigan Law School** the National Quality Improvement Center on the Representation of Children in the Child Welfare System (QIC-ChildRep). The QIC-ChildRep was charged with gathering, developing and communicating knowledge on child representation and also

with promoting consensus on the role of the child's legal representative. The Children's Bureau charged the QIC-ChildRep with improving the quality and quantity of competent representation for children and youth in child welfare cases to help the States and Tribes achieve the best safety, permanency and well-being outcomes for them.

Legal representation of a child in child protection and foster care cases is a unique role in American jurisprudence and has lacked clear definition. The close interface between the social services agencies and the court, the mix of fundamental constitutional rights and the extremely complex intersecting problems of poverty, social service delivery, and family dynamics has no parallel among American institutions or systems. The unusual nature of child welfare in the panoply of American institutions has significant implications for the child's legal advocate. It is no wonder that the struggle for clear role definition has been so challenging.

In its first phase (2010) the QIC-ChildRep conducted a nation-wide needs assessment of the condition of child representation in the United States. Information on academic literature, empirical research, policy proscriptions, and actual daily practice was integrated from many sources. We examined state laws, journal articles, government and foundation issued reports, annual reports submitted by States, and conducted structured in-person and phone discussions with a wide range of policy makers and practitioners. The national needs assessment synthesized the current state of academic discussion, federal and state laws, law in practice and intense activism and reform efforts by the child advocacy community.

This synthesis led to a QIC Best Practice Model of Child Representation that reflects an emerging national consensus on nearly all aspects of the role. The QIC Best Practice Model is based on the 1996 American Bar Association Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases but updated by the current thinking about how best to represent children in the child welfare system. The QIC Best Practice Model represents the general agreement by practitioners, academics, and child welfare policy makers across the country as to what the role and duties of the child's legal representative ought to be. The QIC Best Practice Model innovation is carefully extracted from decades of scholarship, experience and national debate. It rests solidly on the shoulders of many others wrestling with these same issues.

But what will happen if lawyers practice according to this updated Best Practice Model? Will it make any difference to the children and their families facing the problematic American child welfare system? Effectiveness in the field is the real test.

In fall of 2010 the QIC-ChildRep and its independent evaluator Chapin Hall at the University of Chicago recommended a random assignment research design to the Children's Bureau. It would test the hypothesis that attorneys practicing according to the QIC Best Practice Model would change their approach to cases—and consequently improve safety, permanency and well-being outcomes for children involved with the child

welfare system, relative to attorneys whose practice was not influenced by the model. The goal was to implement an intervention that, if successful, could be replicated in other jurisdictions around the country. The U.S. Children's Bureau agreed to this ambitious research proposal.

QIC-ChildRep solicited state partners for the research, which resulted in collaborations with Georgia and Washington State. Attorneys in both states who represented children in child welfare cases were randomly assigned to either a QIC treatment group or a control group of lawyers. The QIC lawyers were given two days of training in the QIC Best Practice Model and received regular follow up through coaching and pod meetings meant to reinforce the principles of the Best Practice Model. The training was organized around Six Core Skills intended to capture the essence of the QIC Best Practice Model. Over three years Chapin Hall gathered data from multiple sources and we now have an unprecedented data set covering 250 lawyers representing about 4,500 children. Chapin Hall's evaluation shows that QIC lawyers changed their behavior, that is, they changed their approach in the direction sought by the intervention. And their change in behavior resulted in measurable improvement in case outcomes for some children.

This book also brings together new knowledge about the *who*, *what* and *how* of child representation using information collected as part of the evaluation. Legal representation of children has not been carefully studied and there are many outstanding questions looking for some empirical light. As to *who* should represent the child, this book contains a profile of the characteristics of lawyers representing children. As to *how* children are represented, we provide a profile of the child advocates and how they are organized and discuss implications for developing and sustaining a state's child representation workforce. As to *who* should represent the child, we provide empirical evidence that multidisciplinary team (MDT) representation of children, by a lawyer and a social worker, significantly improves case outcomes and the experience of children facing foster care. The Flint MDT study found that children represented by the MDT had fewer removals after the intervention was assigned, fewer adjudications of jurisdiction, and fewer petitions to terminate the rights of parents. When children were removed, they were more likely to be placed with relatives and less likely to be placed in stranger foster care. Despite the challenges of merging two different professions with quite different cultures, children benefitted from the collaboration.

As to *what duties* the child advocate should embrace, the chapter on attorney activity uses data collected for the evaluation to show that different lawyers use their time differently; they engage in and prioritize different tasks in their representation of children. Among other things, attorney effort is correlated with a personal belief that their role as children's lawyers is important.

Finally, the book offers a vision for the future of child representation in America based on what we have learned through this QIC experience. There are implications

for the statutory structure of child welfare proceedings, the role of the child's lawyer, how legal services for children should be organized and delivered, the benefits of multidisciplinary representation of children, and how lawyers for children can best be recruited, trained and sustained in doing this important work.

This is the QIC-ChildRep story. All of us associated with this long but exciting project hope that our experiences and these findings will enhance the way child welfare cases are handled. Ultimately we hope to realize an efficient—and just and fair—experience for children and their families requiring the protection and rehabilitation of the child welfare system. May we realize *Children's Justice*! On we go!