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Case Closed: Addressing Unmet Legal Needs & Stabilizing Families

By Vivek S. Sankaran and Martha L. Raimon

This is the first of two articles that examines the role that advocates for parents and families can play in furthering the well-being and safety of children. This article highlights how the work of multidisciplinary advocacy teams with legal expertise can help prevent children from entering foster care. The next article will discuss emerging parent representation models that expedite the safe reunification of children already in foster care.

INTRODUCTION

Travis P., a 7-year old child, and his family became homeless after their landlord illegally evicted them and kept both their security deposit and first month's rent. As a result, Travis, his siblings and his mother bounced between the homes of relatives. When the frequent moves caused Travis to miss school, he came to the attention of Child Protective Services (CPS), which became concerned that Travis' educational needs were being neglected. What Travis and his siblings needed more than anything else was a stable home. And to get that, their mother needed a lawyer to help recover her security deposit from her former landlord and a social worker to help them find housing. Without the lawyer and social worker's help, CPS may well have determined that Travis' situation was unsafe and removed him and his siblings from their mother and placed them in foster care. Travis's family needed a team behind them that was willing to tackle the serious legal issues that were a primary obstacle to the family's stability and safety.

Too often children like Travis enter foster care because their parents are unable to resolve legal issues that affect their safety and well-being in their home. These kinds of legal needs of poor families – problems that have legal issues at their core but are intertwined with other circumstances and challenges – are not unusual, but they are rarely met. On average, poor families experience at least one civil legal need per year, but only a small portion of those needs are satisfied.¹ For every thirteen thousand people in poverty, there exists only one legal aid lawyer². So legal aid programs are forced to reject close to a million cases each year.³ The lack of legal services that can address families' problems in their full complexity threatens the well-being of children like Travis, who may enter foster care when critical needs that are based in, but not confined to, legal issues are left unresolved.

¹ LEGAL SERVICES CORPORATION, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans* 16 (2009)

² *Id.* at 1

³ *Id.* at 9

To address the urgency of family problems and prevent the unnecessary entry of children into foster care, a new targeted approach – multidisciplinary legal services – is emerging that combines preventive legal and social work advocacy to families at risk of losing children to foster care. The programs embodying this approach are new. The oldest office was formed in 2009 and only initial evaluations have been conducted. But preliminary data suggest that these programs can have a significant impact on preventing children from entering foster care. Not only do they keep children safe with their families, they are cost-effective and have the potential to reduce child welfare system costs by reducing the need to rely on foster care placements. This is the first of two articles that examines the role that advocates for parents and families can play in furthering the well-being and safety of children.

“The model makes so much sense. . . We can all do what we want medically but because of these problems, if changes aren’t made, nobody is going to get better . . . The unfortunate reality is that we need lawyers.”

- Dr. Barry Zuckerman

Joel and Barbara Professor of Pediatrics, Boston University
School of Medicine, Boston

THE IMPLICATIONS OF UNRESOLVED LEGAL ISSUES OF CHILDREN AT RISK OF ENTERING FOSTER CARE

There are many scenarios under which a parent’s inability to resolve legal issues may jeopardize a child’s safety and well-being in the home and may increase the likelihood of a child entering foster care. For example, a domestic violence victim may be unable to secure a personal protection order and may be legally obligated to allow her child to have contact with his abusive father. A mother seeking in-patient drug treatment may be unable to transfer her parental authority to a relative and may be forced to leave her child with a relative who has no legal ability to address the child’s medical or educational needs. A father may be wrongfully denied food stamps and may be unable to provide his children with a proper meal. Each of these scenarios highlights the myriad ways in which unresolved legal issues, in combination with other circumstances in a family’s life, can impact a child’s safety and well-being. Left unresolved, there is significant likelihood of CPS getting involved to protect a child’s safety or to help ensure that basic needs are met.

The fact that unresolved legal issues can impact the well-being of children has been recognized by other professions, most notably the medical field. In 1993, Dr. Barry Zuckerman, chief of pediatrics at the Boston Medical Center, created the first medical-legal partnership (MLP) to improve the “health and well-being of vulnerable individuals, children and families by integrating legal assistance into the medical setting.”⁴ In MLP programs, when a clinician identifies a patient with a potential legal need - such as difficulty in obtaining needed services at school, landlord/tenant or income support questions - paralegals or lawyers meet with families in the medical setting to address those issues that may lead to poor health outcomes and advocate to resolve them.

⁴ Rebecca L. Huston et al., *Medical-Legal Partnerships*, 13 AM. MED. ASS’N J. ETHICS (VIRTUAL MENTOR), no. 8, 555, 557 (2011), available at <http://virtualmentor.ama-assn.org/2011/08/pdf/hlaw1-1108.pdf>; Anna Gorman, *Law Is Good Medicine: Medical-Legal Partnerships Can Improve the Health of People in Low-Income Neighborhoods*, L.A. TIMES, Mar. 13, 2010, at 1, available at 2010 WLNR 5282977; History, NAT’L CENTER FOR MED.-LEGAL PARTNERSHIP, <http://www.medical-legalpartnership.org/movement/history> (last visited Dec. 8, 2013).

⁴ NAT’L CENTER FOR MED.-LEGAL PARTNERSHIP, *supra* note 11; see also Barry Zuckerman et al., *Why Pediatricians Need Lawyers to Keep Children Healthy*, 114 PEDIATRICS 224, 224–28 (2004) (discussing doctors’ lack of understanding of Medicaid eligibility).

Zuckerman recognized that legal systems held solutions for many determinants of health, such as malnourished children who need food stamps and asthmatic children who need landlords to provide safe housing, both examples of legal issues that can impact a child's safety and health and, if unresolved, lead to foster care placement.

Since Zuckerman launched the MLP model, it has grown to meet the needs of thousands of children. The model has been integrated into the practice of more than 230 hospitals and health care centers. For example, at the Chicago Medical-Legal Partnership for Children, doctors, lawyers and social workers help families with complex medical needs access health care, special education, income supports and healthy housing. In 2010, more than 54,000 individuals received legal assistance through MLPs and more than 10,000 health care professionals received training on the model, which has been endorsed by the American Medical Association and the American Bar Association. Now, support for the model is coordinated by the National Center for Medical Legal Partnership, which is housed at the George Washington University School of Public Health and Human Services.⁵

But for children like Travis P. who face an immediate risk of being placed in foster care, there is no structure for addressing legal issues that could prevent the need for removal. In most parts of the country, juvenile courts appoint lawyers to represent parents and children in child welfare proceedings, but these lawyers are only appointed *after* a child has already been removed from his parents' home and placed in foster care.

Additionally, these lawyers are frequently poorly compensated, lack adequate training and typically only handle legal issues directly related to the movement of the child into or through the child welfare system. Thus, collateral issues affecting the child's safety – such as housing, domestic violence and custody matters – that, if resolved, could have prevented the child from entering foster care, are rarely addressed.

HOW LEGAL AND SOCIAL WORK ADVOCACY CAN KEEP FAMILIES TOGETHER

A promising new model, based generally on the MLP initiatives, has emerged to provide targeted legal and social work advocacy specifically to prevent the unnecessary entry of children into the foster care system. In 2009, the University of Michigan Law School's Child Advocacy Law Clinic created the Detroit Center for Family Advocacy (CFA) to demonstrate that preventive legal and social work advocacy to families can prevent the unnecessary foster care placement of children. Since that time, similar programs have emerged in Vermont, California and the District of Columbia. Other jurisdictions are exploring the model as well.

The core elements of the model are similar across programs. Child welfare agencies, courts, community-based organizations and others refer families at risk of losing children to foster care because of unresolved legal issues. Once a case is accepted, the programs provide families with the coordinated assistance of an attorney, a social worker (affiliated with the program and not a child welfare worker) and a parent advocate to help resolve legal issues which affect the safety and stability of the child in the home. Lawyers may file for a restraining order, draft a power of attorney, file for guardianship, apply for public benefits or help with special education entitlements, among other legal actions.

⁵ History, NAT'L CENTER FOR MED.-LEGAL PARTNERSHIP, <http://www.medical-legalpartnership.org/movement/history> (last visited Dec. 8, 2013)

The social worker on the team assesses the family's strengths and weaknesses and provides case management. He or she works with existing community partners to help the parent or caregiver access a network of services, such as transitional housing, counseling, and where needed, substance abuse and mental health treatment. The social worker often works cooperatively with the child welfare agency caseworker to create a mutually agreeable safety plan for the parent to meet his or her child's needs.

A parent advocate – a parent who, his or herself, has experienced the child welfare system – provides clients with a unique perspective of how to navigate the system and helps parents stay focused and motivated in the face of adversity. Through this multidisciplinary team approach, these programs work collaboratively with child welfare agencies and others in the community to resolve legal issues, support families to solve their related problems in order to keep children safely in their homes.

The multidisciplinary advocacy teams serve two other important purposes in addition to addressing the legal issues affecting the families. First, they educate child welfare case workers about the ways in which the law can be used as a preventive tool to resolve problems that affect a child's safety. The knowledge gained by case workers may help them pursue creative strategies to keep children on their caseload with their families. Second, by forming trusting relationships with their clients, the multidisciplinary advocacy teams are well suited to motivate and help parents learn how to make the changes necessary for their children to remain in their home. Many of these parents have an adversarial relationship with CPS workers due to the investigative nature of the child welfare process and/or past experiences. Far too often, a parent's distrust towards the child welfare system makes them unwilling to engage with the system to work towards keeping children in their care. The teams, by devoting undivided attention to the client, may be better-suited to support parents to access needed services like public benefits, counseling or substance abuse treatment that will help prevent children from being removed from their homes. Once children are removed, public systems are often too overburdened to provide families with the kind of individualized services necessary to promote reunification, and the family has unnecessarily suffered the trauma of removal and separation.

SAVING CHILD WELFARE DOLLARS WHILE KEEPING CHILDREN SAFE AT HOME

Although only limited evaluations of this model have been conducted, initial data from two sites – the Detroit Center for Family Advocacy (CFA) and the Vermont Parent Representation Center (VPRC) – show how effective it can be to keep children safe with their families while saving public dollars.

During the three-year pilot period, CFA staff served 55 families who were caring for 110 children. The CFA only serves children who have already been referred to the child welfare agency due to allegations of abuse or neglect. At the time of service, 70 percent of the children served by the CFA lived with their birth parents; 30 percent resided with relatives through an arrangement made by their parents⁶.

CFA staff achieved its legal objectives in 98.2 percent of cases, resolving collateral legal issues in a wide range of matters including housing, custody, guardianships, public benefits and domestic violence. ***Most importantly, none of the children served by the CFA entered foster care.***

⁶ Detroit Ctr. for Family Advocacy, Promoting Safe and Stable Families, U. MICH. L. SCH., http://issuu.com/michiganlawschool/docs/cfa_report (last visited Jan. 16, 2014).

The VPRC achieved similar success. Over a two-year period, the VPRC served 26 families who were caring for 55 children. Each case involved a child who faced significant risk of being removed from his or her home. In 79 percent of cases, the VPRC prevented these children from entering foster care. Of those children who entered foster care, 50 percent were assisted to early reunification.

The ability of this model to prevent children from entering foster care presents a significant opportunity for child welfare systems to save scarce public dollars while achieving good outcomes for children. Over the three-year pilot period, the CFA spent \$833,000 and kept 110 children safely at home, all of whom had been found by the child welfare agency to be victims of child abuse or neglect and faced an elevated risk of removal, from entering foster care⁷.

Nationally, when children enter foster care, they remain there for an average of 21.1 months. The average annual cost for a child to remain in foster care is more than \$45,000. Thus, if the model prevented a quarter of the children served by the CFA from entering foster care, a conservative estimate, the cost avoided by the child welfare agency would be more than \$1.3 million, providing a net savings to the system of more than \$500,000 once the costs for funding the model are included.

Similarly, the VRPC estimates that it saved public systems \$315,750 through its work. Although the potential cost savings of this model need to be more fully developed as additional evaluative data become available, these initial data suggest an enormous potential for the model to save child welfare systems thousands of dollars.

CALL TO ACTION

Ultimately, Travis P. did not enter foster care. His family was referred to CFA's multidisciplinary legal team. An attorney on the team negotiated with the landlord to recover the family's security deposit and first month's rent. With that money, the team's social worker helped the family obtain new housing in a transitional living program. And while this process was taking place, the parent advocate worked with Travis' mother to help her understand why child protective services was involved and how to work cooperatively with them. Travis remained safely with his mother and siblings and child protective services closed its case.

Although this type of multidisciplinary foster care prevention advocacy model is new, it has the potential of preventing significant numbers of children from entering foster care without risk to their safety while saving public dollars. As described above, the preliminary data demonstrate that providing families with a multidisciplinary team can help keep children safe with their families by resolving those legal issues that are destabilizing the family unit. But more research must be done to evaluate the effectiveness of the model, including outcome studies conducted with control groups and a more nuanced cost analysis.

Additional work is also needed to explore different ways to finance the model, including the use of both state and federal funds. Potential sources of funding include Title IV-B of the Social Security Act, Title IV-E of the Social Security along with the waiver demonstration projects it authorizes, TANF, Medicaid and the Social Security Block Grant. Recently, a similar model has been launched in Washington, D.C. and is being funded through the District's Title IV-E waiver demonstration project

⁷ VPRC's Performance Measures, VT. PARENT REPRESENTATION CENTER, INC., <http://vtprc.org/performance> (last visited Jan. 16, 2014). Detroit Ctr. for Family Advocacy, Promoting Safe and Stable Families, U. MICH. L. SCH., http://issuu.com/michiganlawschool/docs/cfa_report (last visited Jan. 16, 2014).

funds. This is an encouraging development, particularly because it is the first ongoing federal source of funding for this foster care prevention model. Through these multidisciplinary efforts, and with financial support of these innovative approaches, families with children at risk of entering foster care will receive the supports they need to safely care for their children.

About the Authors

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