



Study Shows Legal Representation of Children Expedites Permanency

A recent evaluation of the Legal Aid Society of Palm Beach County's Foster Children's Project (FCP) shows a direct link between legal representation of children in foster care and their permanency outcomes.

In *Expediting Permanency: Legal Representation for Foster Children in Palm Beach County*, researchers from the Chapin Hall Center for Children at the University of Chicago looked at how legal representation of children in foster care affected case outcomes, such as changes in rates of reunification, adoption, or termination of parental rights (TPR). This research is particularly notable because very few studies have examined how legal representation programs affect children's permanency.

How Does FCP Operate?

The Foster Children's Project of the Legal Aid Society of Palm Beach County (FL) operates with a staff of ten attorneys, two permanency planners, and various support staff. FCP attorneys serve in the role of traditional legal advocates governed by the "expressed interests" of their clients. With a reduced caseload averaging 35, FCP is able to provide more individualized attention to each case and specifically focus on:

- Filing legal motions and status checks
- Filing termination of parental rights petitions
- Recruiting adoptive homes
- Attending case plan meetings
- Participating in service advocacy

FCP attorneys attend staffing and case plan meetings where they advocate for shorter time frames and more defined conditions and benchmarks against which reasonable efforts can be assessed. They focus on filing legal motions and status checks. And if it does not appear that parents are going to get their children back, FCP attorneys timely file TPRs. The program encourages concurrent planning and works to ensure that each child has a permanent home. FCP participates in service advocacy by referring children and parents to services. Finally, they make the extra effort to recruit potential adoptive parents for children who may need them.

Data Collection

The population studied included children 12 years of age or younger at the time of removal who were referred to FCP by the juvenile court. The children must have been removed from home under a protective order on or after July 1, 2001, and could not have been placed in relative care prior to the disposition of the dependency petition.

The control group included children who met all these criteria but were not represented by FCP because of a potential conflict of interest, most often because their parents had at some time used FCP's parent organization's legal services. Using this control group the study presumes that permanency outcomes would not be affected by the factors creating a conflict of interest. The study also indicated no significant differences between the sample and the control group with regard to gender, racial makeup,

prior time in care, and number of siblings in care. There was a small difference in ages of the two groups, but they essentially represented the same population.

The study used data provided by the child welfare records from the Department of Children and Families' HomeSafeNet administrative database and from the juvenile court case files. Because they used two sets of data, they calculated all rates twice. The study also included interviews of judicial professionals, social workers, youth, and their parents.

Findings

Significant findings from the study include:

■ *Children represented by FCP were determined to have significantly higher rates of achieving permanency.*

Children who participated in FCP were 38% more likely to achieve permanency using DCF administration data and 59% more likely using court record data. These increases are mostly associated with much higher rates of adoption and long-term custody among FCP children.

■ *Adoption or guardianship was almost three times more likely with children served by FCP.*

The study calculated a 177% increase in FCP adoptions or guardianships using DCF data and a 194% increase using court record data.

■ *There was a significant increase in long-term custody among children represented by FCP.*

Long-term custody is a permanency option that allows children to remain in a placement with the intention of keeping that child there for an extended period of time (permanently). It is an alternative to guardianship when termination of parental rights is not in the best interests of the child but the child is living in a stable environment. In this study, FCP representation made a significant impact on the probability that children would be placed in long-term custody: according to the DCF data, the increase could be more than 250%.

■ *Reunification rates were unchanged.*

Although adoption, long-term custody, or guardianship are mutually exclusive from reunification, the increase in these permanency options was not offset by a decrease in reunifications. At the same time, the fact that reunification rates did not increase for FCP children is not surprising. FCP efforts focus on expediting the judicial decision-making process but for various reasons may be less effective in mitigating the original risk to the child's safety.

■ *Permanency and the timing of legal milestones were expedited.*

To fully examine how FCP affected permanency rates, the study examined how FCP representation affected the time between: removal and adjudication of the dependency petition; adjudication and case plan approval, case plan approval and permanency, case plan approval and TPR, and TPR and adoption finalization.

The time between removal and adjudication, adjudication and case plan approval, and TPR and adoption finalization rates were statistically unchanged by FCP. The

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key difference was that children served by FCP transitioned between case plan approval and TPR at almost 4 times (3.97) the rate of comparison children.

Although each aspect of FCP's program may be a key component affecting their positive outcomes, FCP-influenced case plans likely had the greatest impact. By clearly defining the return conditions and the benchmark against which reasonable efforts are measured, FCP was able to expedite the permanency process.

Results from Qualitative Interviews

The study included interviews with youth and their parents about the court process. Because too few interviews were conducted, the study does not use these interviews to draw conclusions about the effect of FCP. However, they provide a backdrop explaining how youth and their families feel about attending court, regardless of FCP participation.

How youth felt about attending court: Many youth felt nervous about attending court or angered about the decisions made. They often felt excluded or without control. Many also felt that it was important for their opinions to be heard regardless of the outcome. When asked whether his opinion should be a deciding factor in court, a youth responded, "No, my opinion is what they should ask me and then go on from there."

How having an adult advocate helped relieve some of the confusion and anxiety: Many of the youth were confused by what was going on in court and responded that they could not understand what was being said. Yet the youth who had someone to help them understand were better informed and felt less anxious about attending court. The adults youth identified as helpful included their social workers, FCP attorneys, and judges.

How parents felt about court: Parents often felt the court's recommendations were overly burdensome, making it almost impossible to get their children back. A typical parent explained that they were required to take 15 drug tests, complete a parenting class, get a job, work full time, enroll in a domestic violence program and come to court almost once a week, while at the same time they were about to lose their home and had no reliable form of transportation. Although reunification rates were statistically unchanged between children represented by FCP and those that were not, there was a concern, among social workers, that FCP may have added to these parental burdens.

What Courts Can Do

Although the study was not able to identify exactly what FCP did to affect outcomes, courts can implement or expand programs like FCP that provide attorney representation for children. Programs that are currently operating should try to reduce their caseloads and focus on: attending case plan meetings; participating in service advocacy; timely filing legal motions, status checks, and TPRs; and recruiting adoptive homes.

What You Can Do

All professionals involved in the court process can make a difference by taking an interest in the children with whom they work. To relieve anxiety and confusion for children in care, attorneys, guardians *at litem*, social workers, and judges should explain what is happening in court as well as ask and acknowledge the children's opinions about what they want.

Limitations and Suggestions for Further Study

The study expressed several limitations to its findings and recommendations for further study. The study rests on the assumption that FCP children and those who did not have FCP representation were essentially equivalent. Further studies could attempt to find a truly randomized assignment mechanism. Also, due to the difficulties of finding accurate contact information for participants and their parents, the interview sample was not large enough to compare those with FCP representation and those without. Future studies could attempt to use a larger sample size.

Conclusion

The FCP study shows how legal representation affects permanency outcomes and, in doing so, may reveal the importance of legal representation of children in foster care.

Lily Dorman-Colby

This article is adapted from Andrew Zinn & Jack Slowriver, *Expediting Permanency: Legal Representation for Foster Children in Palm Beach County* (Chapin Hall Center for Children at the University of Chicago, 2008). To read the full report, visit http://www.chapinhall.org/article_abstract.aspx?ar=1467.

Bar-Youth Empowerment Project

For more information about efforts to promote legal representation for all children in foster care, please see the ABA Center on Children and the Law's new **Bar-Youth Empowerment Project** at www.abanet.org/child/empowerment/home.html.



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