This workshop was held at the 2018 Equal Justice Conference in San Diego, California.

Title:

Equal Justice For Families: Effective Interdisciplinary Solutions

Presenters:

Kathleen Creamer, Community Legal Services, Philadelphia, PA
Leslie Heimov, Children's Law Center of California, Monterey Park, CA
Amy Kelso, Office of the Respondent Parents' Counsel, Denver, CO

This interactive workshop focuses on the novel interdisciplinary model of representation for children and parents involved in the child welfare system and challenges the structure of a legal system that unjustly makes adversaries of children and parents by pitting the right to family integrity against the right to be safe.
EXPANDING ACCESS TO JUSTICE, STRENGTHENING FEDERAL PROGRAMS

FIRST ANNUAL REPORT OF THE WHITE HOUSE LEGAL AID INTERAGENCY ROUNDTABLE

NOVEMBER 2016
White House Legal Aid Interagency Roundtable Members

Administrative Conference of the United States (ACUS)
Consumer Financial Protection Bureau (CFPB)
Corporation for National and Community Service (CNCS)
Equal Employment Opportunity Commission (EEOC)
Federal Communications Commission (FCC)
Federal Trade Commission (FTC)
Legal Services Corporation (LSC)
National Science Foundation (NSF)
Office of Management and Budget (OMB)
Social Security Administration (SSA)
U.S. Agency for International Development (USAID)
U.S. Department of Agriculture (USDA)
U.S. Department of Education (ED)
U.S. Department of Health and Human Services (HHS)
U.S. Department of Homeland Security (DHS)
U.S. Department of Housing and Urban Development (HUD)
U.S. Department of the Interior (DOI)
U.S. Department of Justice (DOJ)
U.S. Department of Labor (DOL)
U.S. Department of State (State)
U.S. Department of the Treasury (Treasury)
U.S. Department of Veterans Affairs (VA)
Dear Mr. President:

The Department of Justice and the White House Domestic Policy Council first convened the Legal Aid Interagency Roundtable in 2012 because we recognized a simple truth: Federal programs can do a better job for the American people—especially low-income and vulnerable populations—when they include civil legal aid. Armed with this knowledge, the original 18 Federal agencies participating in the roundtable sought new ways to incorporate legal aid into their work. The results of these early initiatives were inspiring, making clear that access to justice helps individuals and families secure basic necessities like health care, housing, employment, and education, while also enhancing family stability and increasing public safety.

You recognized the success of these efforts when you signed a Presidential Memorandum on September 24, 2015 formally establishing the White House Legal Aid Interagency Roundtable (WH-LAIR). U.S. Ambassador to the United Nations Samantha Power announced the Presidential Memorandum on the eve of the adoption of the United Nations’ historic 2030 Agenda for Sustainable Development. The Memorandum expands the number of participating agencies, urges these agencies to accelerate and deepen their commitment to legal aid, and directs them to assist the United States in the implementation of Goal 16 of the 2030 Agenda.

This first annual report documents how WH-LAIR has worked over the past four years to inspire innovative interagency collaborations that support and protect individuals who are frequently overlooked and often underserved. It also provides dozens of examples of agencies working together and with legal aid to develop programs that advance their common goals. Finally, the report discusses how the WH-LAIR agencies are collaborating with state and local partners to ensure that the most vulnerable among us receive the fair treatment and equal justice that they deserve.

Although we have made significant advancements in this field, there is still work to be done. We are confident that the White House Legal Aid Interagency Roundtable has laid a foundation that will continue to serve the public well for years to come.

Thank you for your ongoing leadership and for your commitment to one of our country’s most fundamental principles: equal justice for all. It is an honor for us to lead this initiative on your behalf and to submit this report to you.

Loretta E. Lynch
Attorney General
United States Department of Justice

Cecilia Muñoz
Director
White House Domestic Policy Council
Message from the Executive Director

It has been an honor to serve as the first Executive Director of the White House Legal Aid Interagency Roundtable (WH-LAIR) and a privilege to work with so many inspiring agency leaders from across the Federal government. Together we have made great progress towards the goal that President Obama set in his Presidential Memorandum, to “increase the availability of meaningful access to justice for individuals and families and thereby improve the outcomes of an array of Federal programs.”

Success starts at the top with the leadership of Attorney General Loretta Lynch, White House Domestic Policy Council (DPC) Director Cecilia Muñoz, and their designated co-chairs Principal Deputy Associate Attorney General Bill Baer and Deputy Assistant to the President for Urban Affairs, Justice, and Opportunity in DPC Roy Austin. Credit for LAIR’s initial launch and the track record that led to its designation last year as a White House initiative must also be shared with their predecessors former Attorney General Eric Holder, former Special Assistant to the President for Justice and Regulatory Policy in DPC Tonya Robinson, former Associate Attorney General Tony West, and former Principal Deputy Associate Attorney General Stuart Delery.

In the four years since the first LAIR meeting in 2012, our agency representatives—listed in Appendix C—have uncovered important synergies between Federal agency objectives and legal aid. Together with many agency colleagues, they have ensured that our collective policies and priorities translate to meaningful help for the people we all seek to serve. WH-LAIR’s success, however, is due not just to its agency members, but also to their active engagement with passionate legal aid advocates throughout the country and essential partners from the judiciary, private bar, charitable foundations, and state, local, and tribal governments. This unprecedented collaboration has produced remarkable results that we are proud to present in this Report.

Staffing WH-LAIR with passion and talent were past and present members of the DOJ’s Office for Access to Justice: Directors Laurence Tribe, Mark Childress, Deborah Leff, and Lisa Foster; Deputy Director Maha Jweied; Senior Counsels Melanie Clark, Daniel Olmos, Jenni Katzman, Bob Bullock, Andrew Stanner, Helam Gebremariam, Silvia Dominguez-Reese, and Anne Traum; Office Manager Stephan Matthews, and scores of interns hailing from across the country. In addition to her contributions to WH-LAIR’s work generally, Senior Counsel Allie Yang-Green deserves special commendation for her exceptional work in production of this Report.

Thanks to the dedication of these individuals and so many other determined Federal colleagues and partners, I am hopeful that the ambitious vision for WH-LAIR will continue to be implemented in the years to come.

Karen A. Lash
WH-LAIR Executive Director
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EXECUTIVE SUMMARY

This Nation was founded in part on the promise of justice for all. Equal access to justice helps individuals and families receive health services, housing, education, and employment; enhances family stability and public safety; and secures the public’s faith in the American justice system. Equal access to justice also advances the missions of an array of Federal programs, particularly those designed to lift Americans out of poverty or to keep them securely in the middle class. But gaps in the availability of legal aid—including legal representation, advice, community education, and self-help and technology tools—for America’s poor and middle class threaten to undermine the promise of justice for all and constitute a crisis worthy of action by the Federal Government.

~President Barack Obama
Presidential Memorandum Establishing WH-LAIR

Civil legal aid—free legal assistance to low-income and underserved individuals—increases access to justice and alleviates poverty and inequality. With legal aid, a woman may obtain a protection order and escape domestic violence, a homeless veteran may secure stable housing, and a young adult may get their old criminal record expunged and get a job. Though not always appreciated or utilized, legal aid is a critical element of the Federal government’s efforts to reduce poverty, protect the most vulnerable among us, and strengthen our communities.

Recognizing the power of legal aid, the White House Legal Aid Interagency Roundtable (WH-LAIR) agencies have been working together since 2012 to integrate legal aid into myriad Federal programs, policies, and initiatives. Co-chaired by the Attorney General and the Director of the White House Domestic Policy Council and staffed by DOJ’s Office for Access to Justice, WH-LAIR has engaged Federal grantees, legal aid providers, and Federal agency staff to raise awareness about how legal aid advances Federal priorities. The impressive results include clarifying the scope of dozens of Federal grant programs to include the provision of legal aid that further program goals in the areas of health care, domestic violence, citizenship, homelessness, reentry, and more; developing new training and technical assistance to grantees and legal aid providers; and generating new research about the impact of civil legal aid. WH-LAIR also launched the WH-LAIR website and Toolkit, online resources that provide information about civil legal aid as well as Federal funding opportunities and other resources.

In September 2015, President Obama signed a Presidential Memorandum that formally established the interagency collaboration as a White House initiative. The Memorandum expanded WH-LAIR’s mandates to include advancing evidence-based research and data collection of civil legal aid and indigent defense, promulgating best practices, and assisting the United States with implementing Goal 16 of the United Nation’s 2030 Agenda for Sustainable Development—which calls on countries to ensure “equal access to justice for all.”
This Report is WH-LAIR’s first annual report to the President. Part I provides an overview of civil legal aid and WH-LAIR; Part II details WH-LAIR agencies’ efforts to improve their programs by incorporating legal aid; and Part III outlines WH-LAIR’s plans for the future.

The Report demonstrates that the 22 members of WH-LAIR have taken significant steps to integrate civil legal aid into their programs designed to serve low-income and vulnerable individuals, where doing so can improve their effectiveness and increase access to justice. The strategies that agencies deploy to advance WH-LAIR’s mission largely fall into four categories: 1) leveraging resources to strengthen Federal programs by incorporating legal aid; 2) developing policy recommendations that improve access to justice; 3) facilitating strategic partnerships to achieve Federal enforcement and outreach objectives; and 4) advancing evidence-based research, data collection, and analysis. WH-LAIR agencies’ efforts in these areas include:

**Leveraging resources to strengthen Federal programs by incorporating legal aid**

- HHS clarified that legal aid is included in the range of “enabling services” that HHS-funded health centers can provide to meet communities’ primary care needs.
- HUD funds fair housing enforcement organizations, including legal aid programs, to assist people who believe they have been victims of housing discrimination.
- Treasury’s Internal Revenue Service (IRS) supports legal clinics that provide representation for little to no cost for low-income individuals seeking to resolve disputes with IRS to ensure fairness and integrity in the tax system.
- SSA, ED, and HHS provide legal aid to people with disabilities through the Protection and Advocacy System (P&A) programs and also fund technical assistance to P&A programs providing legal aid.
- CNCS and DOJ fund legal aid lawyers and staff through Elder Justice AmeriCorps to help elder abuse victims and justice AmeriCorps to assist unrepresented immigrant children who have crossed the U.S. border without a parent or legal guardian.
- DOI helps support tribal courts and provides free trainings to tribal judges, prosecutors, and defenders—which include legal aid providers—to strengthen tribal justice systems.

**Developing policy recommendations that improve access to justice**

- ACUS and DOJ co-chair WH-LAIR’s Working Group on Self-Represented Parties in Administrative Hearings, which explores best practices for administrative hearing procedures involving self-represented individuals to increase fairness, accuracy, and efficiency.
- DOL issued the 2016 Workforce Innovation and Opportunity Act final rules, which list legal aid among the services American Job Centers can provide to help youth, adults, and dislocated workers secure employment.
- HHS’s Office of Child Support Enforcement outlines opportunities to support self-help strategies for certain legal needs in its proposed rule to modernize the nation’s child support program.
➢ VA issued a directive to advise VA medical facilities on how to refer homeless veterans to legal aid providers for assistance with legal matters, such as child support, outstanding warrants and fines, and to provide office space to legal service providers when possible.

➢ State, USAID, and DOJ are promoting the creation of the first global network of criminal legal aid providers.

Facilitating strategic partnerships to achieve enforcement and outreach objectives

➢ FTC developed the Legal Services Collaboration, a nationwide partnership with legal aid, to inform FTC’s law enforcement priorities and allow the agency to alert local communities about scams and respond to local concerns.

➢ CFPB collaborates with legal aid to broaden the reach of the Your Money, Your Goals Toolkit, which helps individuals and families work through short- and long-term financial issues.

➢ DOJ, DOL, and FTC credit their collaborations with legal aid for enforcement actions ending discriminatory school discipline practices, ensuring language access for injured low-income workers and court users, and helping to shut down illegal practices by car dealers and bogus “work-at-home” scammers.

➢ EEOC and DOL are working to strengthen their respective collaborative partnerships with civil legal aid providers who can inform the agencies of relevant issues to enhance their enforcement and outreach activities.

Advancing evidence-based research, data collection, and analysis

➢ DOJ chairs WH-LAIR’s Working Group on Access to Justice Indicators and Data Collection, which works to identify national indicators to track the United States’ progress in achieving access to justice consistent with Goal 16 of the 2030 Agenda for Sustainable Development.

➢ NSF sponsored a workshop to advance practitioner-scholar partnerships on access to justice-related research projects, and DOJ, in collaboration with NSF, hosted a Civil Legal Aid Research Workshop to help create a research agenda on Federal priorities at the intersection of civil legal aid, public safety, and criminal justice.

➢ VA surveys veterans, VA staff, and community participants each year to identify the needs of homeless veterans including their legal needs.

➢ LSC is undertaking a new national legal needs survey to update the Justice Gap studies of 2005 and 2009.

These are just some of the many WH-LAIR agency actions that expand access to civil legal aid, improve program effectiveness, and enhance the quality of life for families and communities. Although much has been accomplished, there is more work to be done to maximize the performance of Federal programs and ensure meaningful access to justice for all in America.
**EXECUTIVE SUMMARY**

**White House Legal Aid Interagency Roundtable**

**Agencies & Civil Legal Aid Programs in Action**

**Legal aid helps to create a stable and loving family**

“Timmy,” a four-year-old boy, had never known a parent other than his 53-year-old grandmother, “Sandra,” who cared for him on her own since he was one. On Timmy’s behalf, Sandra was receiving Temporary Assistance for Needy Families (TANF) program funds from the Mason County, West Virginia, Department of Health and Human Resources Office. In 2013, she contacted Legal Aid of West Virginia (LAWV) to request help formally adopting her grandson. Through LAWV’s WV WORKS Legal Support Project, which receives funds from the state’s TANF program, a staff attorney took on the adoption case and helped complete the adoption in 2014. Sandra and Timmy were overjoyed that Timmy’s permanent home would be with his loving “ma-ma.”

**Trafficking victim gains a financial fresh start with legal aid**

At risk of homelessness, 18-year-old “Becky” moved in with her boyfriend “Jimmy.” Though he initially treated her nicely, Jimmy soon forced her to have sex with other men for money, and work at legal brothels and strip clubs in Nevada and Houston. Eventually Becky escaped, and Jimmy was arrested for his part in a domestic sex trafficking ring. Although finally freed, Becky soon began receiving letters from the IRS for unpaid Federal taxes on nearly $300,000 in the earnings from the legal brothels and strip clubs. Becky turned to Lone Star Legal Aid’s Low Income Taxpayer Clinic, a program funded in part with a grant from the IRS, and its lawyer helped Becky document her experience as a trafficking victim who never received any funds. This legal assistance helped eliminate Becky’s tax debt and enabled a financial fresh start to help her recover from years of trafficking.

**Lawyer’s help clears barriers for working mom**

Francesca, a 21-year-old single mother of two children, received a job offer to work at a major bank’s call center. But when a background check revealed a three-year-old municipal ticket for retail theft, she lost the offer. When she was 18, she got the ticket for taking clothing valued at $20 from a former employer. She knew it was a mistake and vowed not to do it again. She paid the fine thinking that the municipal ticket would not create a criminal record. The recipient of DOL’s Face Forward grant referred Francesca to their legal aid partner, Legal Action of Wisconsin, for help. Within a month, a legal aid attorney got Francesca’s municipal ticket case reopened and dismissed. After the attorney submitted proof of the dismissal to the state criminal investigation bureau, which cleared Francesca’s criminal background report, the bank hired Francesca. After less than eight months on the job, Francesca earned a raise.
PART I: INTRODUCTION

“By encouraging Federal departments and agencies to collaborate, share best practices, and consider the impact of legal services on the success of their programs, the Federal Government can enhance access to justice in our communities.”

~President Barack Obama

Presidential Memorandum Establishing WH-LAIR

On September 24, 2015, President Barack Obama signed a Presidential Memorandum establishing the White House Legal Aid Interagency Roundtable (WH-LAIR) with a mandate to integrate civil legal aid into a wide array of Federal programs, policies, and initiatives where doing so can improve their effectiveness and enhance justice in our communities. The President noted that, when it comes to increasing access to health services, housing, education, employment, family stability, and public safety for the vulnerable and underserved, civil legal aid can often play a powerful role in meeting these Federal goals and securing the public’s trust in the American justice system. But he also recognized that too often legal aid is not available to address these critical priorities.

The Presidential Memorandum directs WH-LAIR to report to the President annually on its progress and to document how it is working to improve the effectiveness and efficiency of Federal activities. This Report highlights the remarkable success WH-LAIR agencies already have achieved.

The Report proceeds in three parts. Part I provides an overview of civil legal aid and how legal aid can advance Federal priorities. Here the Report elaborates on how participating agencies approach and execute WH-LAIR’s mission. Part II details how WH-LAIR agencies have incorporated legal aid into a wide range of Federal programs, from accessing health services to meeting the needs of low-income veterans, including concrete examples of how agencies collaborate with legal aid providers to improve their programs and achieve their objectives.

Part III outlines the potential future for WH-LAIR, describing how the agencies involved in this effort can continue to work with legal aid partners to achieve their shared goals and strengthen our communities.

WHAT IS CIVIL LEGAL AID AND WHY IS IT IMPORTANT TO FEDERAL PRIORITIES?

“
The consequences of limited access to justice reverberate far beyond the courtroom. It hampers our ability to do critical work: to prevent domestic violence and human trafficking; to combat homelessness and predatory lending; to help those in need secure health care and other vital government benefits; to keep kids in school; and to help those with criminal records gain a second chance to succeed.

~Attorney General Loretta E. Lynch
WH-LAIR Co-Chair

Most Americans don’t realize that you can lose your home, have your children taken away from you, and be a victim of domestic violence in need of a protection order but you have no constitutional right to a lawyer.

~James J. Sandman
President, LSC

WHAT IS CIVIL LEGAL AID AND WHY IS IT IMPORTANT TO FEDERAL PRIORITIES?

Civil legal aid is free legal assistance to people who have civil legal problems—life-altering problems like foreclosure, eviction, unemployment, debt, and domestic violence. Legal aid also helps people, particularly the most vulnerable among us, access basic necessities such as health care, housing, government benefits, employment, and educational services. Legal aid is especially vital because unlike criminal cases where there is typically a Constitutional right to counsel, there is no right to a lawyer in most civil cases.

Civil legal aid includes direct services by legal aid attorneys and pro bono volunteers who provide representation in court or administrative proceedings or advice to help identify legal issues and develop possible solutions. Legal aid also includes self-help resources and community education delivered through court-based self-help centers, workshops, telephone help lines, online information and chat tools, and downloadable court forms. Legal aid helps Americans of all backgrounds understand their rights and responsibilities and effectively navigate the civil justice system.

Who provides civil legal aid?

Civil legal aid is provided by nonprofit organizations, pro bono volunteers, law schools, and court-based programs.

The largest single funder of civil legal aid for low-income Americans is LSC,¹ which distributes more than 90% of its total Congressional appropriation to 134 independent nonprofit legal aid programs, serving every state and territory with more than 800 offices. LSC is headed by a bipartisan board of directors whose 11 members are appointed by the President and confirmed by the Senate. LSC-funded programs typically help people who live in households with annual incomes at or below 125% of the Federal poverty guidelines.
LSC-funded organizations comprise only about 25% of the total number of civil legal aid providers nationally. There are hundreds of other nonprofit civil legal aid programs, as well as programs affiliated with law schools and courts, that do not receive LSC funds. Some provide general services while others focus on particular populations or issues (e.g., children, people experiencing homelessness or domestic violence, people with disabilities, or veterans). Some programs coordinate pro bono attorneys or specialize in self-help. Many of these programs do not limit their services based on income, and some serve, for example, older Americans or domestic violence survivors regardless of income. Self-help and informational services are generally available to all.

“Civil legal aid,” “legal aid,” or “legal services” refers to all of these programs and services. LSC encourages—and all non-LSC programs depend on—leveraging limited resources by partnering with other public and private funders of civil legal aid. Such partners include Federal, state, local, and tribal governments, state-based Interest on Lawyers’ Trust Account (IOLTA) programs,2 access to justice commissions, the private bar, courts, philanthropic foundations, and the business community.

Examples of How Legal Aid Expands Its Reach with Pro Bono Volunteers

➢ The American Bar Association Veterans’ Claims Assistance Network, in close coordination with VA, provided unrepresented veterans with pending disability benefits claims the opportunity to work with lawyers to assist them in completing their claims packages for expedited review by VA—at no cost to the veterans.

➢ LSC grantees multiply their services by using at least 12.5% of their LSC funds to support pro bono programs. The volunteers—private attorneys, government attorneys, corporate counsel, law school faculty and students—handled 91,618 cases in 2015 alone, helping over 225,600 people with a wide array of family, housing, employment, and other legal problems.

➢ Over 40 Federal agencies participate in the Federal Government Pro Bono Program and promote pro bono work among their attorneys and legal staff. The program works with legal aid organizations to identify pro bono opportunities that do not pose conflicts for Federal government attorneys, assists attorneys in navigating the rules governing their engagement in pro bono activities, and provides support and resources to volunteers. Attorneys handle family, housing, domestic violence, and consumer law cases, serve as guardians ad litem, draft wills for seniors, provide advice at legal clinics, and teach law to high school students.

Why is civil legal aid important to Federal priorities?

The Federal government advances policy initiatives designed to prevent or end homelessness, domestic violence, hunger, and crime, and Federal agencies support scores of programs that help Americans get an education, a job, and health care. Federal agencies also deploy significant resources to uphold statutory and Constitutional rights that protect veterans and servicemembers, people with disabilities, victims of consumer scams, and many others. These programs should be as effective as possible and have the maximum impact on the greatest number of people.
Civil legal aid is often an essential element of success. Victims of domestic violence likely need a protection order to keep their abuser away; they may need a child custody or child support order, health insurance, or housing so that they can leave the abuser and provide for their family. Without legal aid, obtaining these critical supports may well be impossible. Eighteen-year-olds with juvenile records may be able to expunge or seal their records, allowing them to obtain a student loan or successfully apply for a job. Without legal assistance to determine their eligibility and help navigate the process, they may not get a second chance in life. And Federal agencies charged with protecting consumers from fraud can more successfully prosecute cases when legal aid lawyers in communities help them identify victims and document their losses. All across the Federal government, many programs will simply work better if they include legal aid. This is also true for the U.S. Government’s development work across the globe. International development programs to improve livelihoods, health, and food security are stronger when access to justice is incorporated into their design.

Often, however, government policymakers and social service providers who administer Federal programs are unaware that legal aid can be a critical ingredient to the success of their efforts. WH-LAIR aims to close that knowledge gap and works to leverage legal aid to help Federal agencies better achieve their goals of lifting Americans out of poverty and protecting the most vulnerable among us.

Evidence shows legal aid makes a difference

Although there is still a need for further research on the impact of legal aid, many studies show that people who get legal help achieve better outcomes than people who do not. For example, in housing cases, one study found that 51% of tenants who participated in eviction proceedings without a lawyer lost their homes, while only 21% of tenants with lawyers did.\(^3\) Research on domestic violence suggests that the only service that reduces domestic abuse in the long term is legal assistance.\(^4\) Similarly, a 2014 study indicates that legal interventions, such as expungement of an old criminal record, stems the decline in earnings and may even boost the earnings of individuals reentering society.\(^5\) Studies like these show how legal aid makes a meaningful difference in people’s lives and why it should be incorporated into strategies that address a range of Federal priorities.

Studies show investing in legal aid has economic benefits

Ensuring access to legal aid not only prevents financial hardships for those who seek assistance, it can also conserve public dollars by preventing problems like homelessness or health issues that can be extremely costly and harmful to individuals and the public. For example, an HHS-funded medical-legal partnership study concludes, “civil legal aid services can positively impact individual and population health ... [and] ... drive down healthcare costs.”\(^6\) Civil legal aid can also help children leave foster care more quickly, improving efficiency and cutting costs in public programs. In Washington State, legal representation for parents in child welfare proceedings resulted in children exiting foster care at a rate that was 11% higher than unrepresented parents and adoptions nearly
doubling. This in turn lowers payments to foster parents, subsidies for children’s medical care, cash benefits, and the expense of monitoring the foster family. Federal programs that provide for legal aid help achieve these kinds of economic benefits.

Research says:

**Going Without a Lawyer**

According to reports from state judges:
- **Arizona:** 90% of litigants in domestic violence and probate cases are self-represented
- **Florida:** 80% of divorce cases had at least one litigant without a lawyer
- **Hawaii:** 96% of tenants in landlord-tenant cases and 80% of homeowners in foreclosure cases do not have legal representation
- **Minnesota:** in 71% of family law cases at least one party is self-represented
- **New York:** 99% of New York City tenants in eviction cases were self-represented

Source: Budget Request for Fiscal Year 2017, Legal Servs. Corp.

**The need is great**

Currently, available resources for civil legal aid do not meet the need for services. According to the U.S. Census Bureau, in 2015, over 60 million Americans—nearly one in five—qualified for free legal aid from an LSC-funded legal aid program based on their income. Past studies have found that approximately 50% of those seeking legal aid are turned away because of limited resources. These statistics describe only those below or near the poverty line and do not reflect the tens of millions of moderate-income Americans who also cannot afford legal help. According to a recent study, by age 60, nearly four in five Americans will experience some kind of economic hardship, such as relying on a government program for the poor or living at least one year in poverty or very close to it. These Americans cannot afford to hire a private lawyer even when faced with catastrophic events like the potential loss of a home, health care, a job, or educational opportunities. Problems that end up in court can be especially overwhelming for the estimated 75-80% of civil litigants who must represent themselves without the help of a lawyer.

**Most people don’t know that their problem has a legal solution**

The majority of low- and moderate-income Americans do not see the issues they encounter as legal problems. Raising awareness about and increasing the capacity of civil legal aid is critically important to matching people with appropriate services. A family may be concerned about unsafe housing conditions or harassment from debt collectors, but may see these as personal or social problems, or just bad luck, while a legal aid lawyer may be able to identify a legal solution. Research also shows that poor people are twice as likely as their moderate-income counterparts to do nothing to address their civil justice problems, even though they may need the help even more.

“**You’ve also proven that civil legal aid doesn’t just open doors to our justice system—it provides a critical reinvestment in the community. Your work saves precious taxpayer dollars by protecting patients’ health, increasing access to public benefits, keeping families together, reducing domestic violence, and offering indigent citizens a way out of poverty. And this economic benefit is more important than ever before, as so many of us—at every level of government, and across both the nonprofit and private sectors—have struggled to meet constantly growing demands with increasingly limited budgets.**

~Former Attorney General Eric Holder

**Keynote Speech, Legal Aid Society of Cleveland Annual Dinner, 2012**
Launch of WH-LAIR

“Access to legal services matter[s], and it is what can make the difference . . . for [people] with faces and families; in a victim of domestic violence obtaining a restraining order; a homeless veteran getting housing assistance—ten more of whom become homeless in America every day; and a working mom receiving child support. . . . That is why the presidential memorandum . . . that President Obama signed today—which makes permanent an effort to increase access to services for the poor across 20 government agencies—is so important.

~Ambassador Samantha Power
U.S. Permanent Representative to the United Nations

The White House Domestic Policy Council (DPC) and DOJ convened the Legal Aid Interagency Roundtable (LAIR) in 2012 to improve the outcomes of Federal programs that serve low-income and other vulnerable populations and safeguard their rights by incorporating legal aid. With the support of former Attorney General Eric Holder and DPC Director Cecilia Muñoz, former Associate Attorney General Tony West and DPC Special Assistant Tonya Robinson co-chaired the first LAIR meeting in July 2012, which was attended by representatives from 18 Federal agencies. LAIR was launched and staffed by DOJ’s Office for Access to Justice (ATJ), an office that helps spearhead national efforts to improve the civil and criminal justice systems for low-income and underserved populations.

LAIR had three objectives:

1. Identify Federal funding opportunities that could achieve improved outcomes and more efficiently reach program goals by adding civil legal aid partners;
2. Identify opportunities for agency collaborations with legal aid that could improve Federal enforcement and outreach activities; and
3. Identify and eliminate unintended barriers that could prevent legal aid providers from becoming grantees, sub-grantees, or partners in initiatives that serve underrepresented and vulnerable populations.

LAIR’s accomplishments included:

➢ Clarification that dozens of grants involving health care, domestic violence, citizenship, homeless veterans, reentry, and more can include legal aid because it furthers program goals;
➢ More than 100 webinars and other presentations to Federal grantees, the civil legal aid community, and Federal agency staff about how legal aid advances Federal priorities;
➢ New training and technical assistance to grantees and legal aid providers;
➢ Research about the impact of civil legal aid; and
➢ Launch of the LAIR website and Toolkit, online resources that provide information about civil legal aid and how it helps advance a broad array of Federal objectives as well as available Federal funding opportunities and other resources.
LAIR also received international recognition as a U.S. national best practice on the Rule of Law on the United Nations’ Rule of Law website.

Three years of achievements prompted the President to issue a Presidential Memorandum establishing LAIR as a White House initiative, and it was announced by Ambassador Samantha Power on the eve of the United Nation’s Sustainable Development Summit in September 2015. The Presidential Memorandum named the Attorney General and DPC Director as co-chairs and charged White House LAIR (WH-LAIR) with accelerating its activities and expanding its Federal partners. Becoming a White House initiative came with additional mandates to report annually on progress, advance relevant evidence-based research and data collection, and to assist the United States with implementing Goal 16 of the United Nation’s 2030 Agenda for Sustainable Development. Goal 16, which calls for the provision of equal access to justice for all, signals the global communities’ recognition that access to justice is necessary to end poverty. WH-LAIR’s mandate to implement Goal 16 demonstrates to the world that the United States takes the task of improving access to justice seriously.

**Presidential Memorandum Establishing the White House Legal Aid Interagency Roundtable**

Section 4(a) [WH-LAIR] shall work across executive departments, agencies, and offices to:

(i) improve coordination among Federal programs that help the vulnerable and underserved, so that those programs are more efficient and produce better outcomes by including, where appropriate, legal services among the range of supportive services provided;
(ii) increase the availability of meaningful access to justice for individuals and families, regardless of wealth or status;
(iii) develop policy recommendations that improve access to justice in Federal, State, local, tribal, and international jurisdictions;
(iv) assist the United States with implementation of Goal 16 of the United Nation’s 2030 Agenda for Sustainable Development; and
(v) advance relevant evidence-based research, data collection, and analysis of civil legal aid and indigent defense, and promulgate best practices to support the activities detailed in section 4(a)(i)-(iv).
We commit ourselves to new Sustainable Development Goals, including our goal of ending extreme poverty in our world. We do so understanding how difficult the task may be. We suffer no illusions of the challenges ahead. But we understand this is something that we must commit ourselves to. Because in doing so, we recognize that our most basic bond—our common humanity—compels us to act. ... That’s why, today, I am committing the United States to achieving the Sustainable Development Goals.

~President Barack Obama
September 27, 2015
United Nations
Sustainable Development Summit

In September 2015, the United Nations adopted the 2030 Agenda for Sustainable Development—a historic agenda to end extreme poverty while taking action on climate change and inequality, setting forth 17 Goals and 169 associated targets to guide this ambitious task. Among the goals, Goal 16—and specifically target 16.3—recognizes that access to justice is essential to promoting peaceful and inclusive societies for sustainable development. Target 16.3 calls on countries to:

“Promote the rule of law at the national and international levels and ensure equal access to justice for all.”

Unlike past global anti-poverty efforts, which primarily focused on developing countries, the 2030 Agenda applies to every country, no matter its level of development—including the United States. Demonstrating the United States’ commitment to the Sustainable Development Goals (SDGs), President Obama charged WH-LAIR to “assist the United States with implementation of Goal 16” in the Presidential Memorandum formally establishing WH-LAIR. The Presidential Memorandum also added to WH-LAIR the Department of State and United States Agency for International Development, both of which offered significant leadership during the United States’ participation to develop and adopt the 2030 Agenda.

The 2030 Agenda also calls for the creation of international, regional, and national indicators for all of its goals to help track their progress. In response, WH-LAIR agencies launched the Working Group on Access to Justice Indicators and Data Collection to identify national indicators for Target 16.3.
How WH-LAIR Works

WH-LAIR deploys a range of strategies to advance its mission. They largely fall into the following four categories:

➢ Leveraging resources to strengthen Federal programs by incorporating legal aid;
➢ Developing policy recommendations that improve access to justice;
➢ Facilitating strategic partnerships to achieve enforcement and outreach objectives; and
➢ Advancing evidence-based research, data collection, and analysis.

1) Leveraging resources to strengthen Federal programs by incorporating legal aid

To help Federal programs reach their maximum effectiveness and efficiency, as called for in the Presidential Memorandum, WH-LAIR agencies leverage Federal resources by incorporating legal aid into existing funding, training, and technical assistance opportunities to better serve vulnerable and underserved populations.

WH-LAIR member agencies have reviewed numerous Federal grants, recognizing that legal aid for individuals and families living in poverty or near poverty has too often been overlooked, despite the critical contribution it can make to the success of so many programs. As a result, many agencies clarified that dozens of grants can be used by grantees for legal services that further program goals. Examples include DOJ and DOL programs that give people with old criminal records a second chance; VA and DOL grants to help homeless veterans; HHS grants that ensure access to health services and improve prospects for healthy outcomes; and DHS programs to promote immigrant civic integration and prepare permanent residents for citizenship.

USAID, the U.S. Government’s lead development agency, works to strengthen access to justice and legal empowerment in partner countries around the world by funding activities that support the provision of legal aid, strategic litigation, access to paralegals, legal clinics, and “know your rights” campaigns and human rights education.

WH-LAIR’s interagency activity has also led to agencies working collaboratively to provide funding for legal aid. For example, to advance shared efforts to support successful reentry for people with criminal records, HUD and DOJ together launched the Juvenile Reentry Assistance Program (JRAP) to provide legal aid that reduces or prevents collateral consequences for justice-involved youth living in public housing. Likewise, CNCS and DOJ created “Justice AmeriCorps” to increase legal aid to unaccompanied and unrepresented immigrant children and enhance the effectiveness and efficiency of immigration court proceedings.

Another important way to leverage Federal resources is to incorporate legal aid into training and technical assistance (TTA) programs. Whether for the legal aid community to get trained in a new issue impacting Federal priorities or for other service providers to get trained on how legal aid helps address particular problems, TTA can be the critical link to ensuring the success of Federal programs.

"JRAP is...just one of the many great ideas that have arisen in part from the White House Legal Aid Interagency Roundtable, or WH-LAIR, which brings together 22 Federal agencies in an effort to identify and enhance legal aid opportunities, including for reentering individuals."

~Attorney General Loretta Lynch
WH-LAIR Co-Chair
National Reentry Week Remarks, April 2016
For instance, after studying and confirming that medical-legal partnerships (MLPs) improve health outcomes and decrease health costs, HHS began providing TTA about MLPs to community health centers. Similarly, DOJ funds TTA to victim legal assistance network grantees, and a disability advocacy organization was awarded contracts to provide TTA to the SSA-, ED- and HHS-funded Protection and Advocacy legal assistance programs for persons with disabilities.

2) Developing policy recommendations that improve access to justice

In accordance with the Presidential Memorandum’s challenge to “develop policy recommendations that improve access to justice,” WH-LAIR agencies endeavor to identify opportunities to remove obstacles to legal aid collaborations by issuing policy guidance or new rules. For example, signaling its support for ensuring legal aid to veterans, the VA issued a policy memo to VA hospitals encouraging hospital staff to refer homeless veterans to legal aid providers for assistance with matters such as child support or outstanding warrants or fines, and to provide office space to legal aid providers when possible to facilitate on-site help. Several agencies also published new rules that for the first time include or expand the use of legal assistance to achieve program goals. For example, DOL’s 2016 Workforce Innovation and Opportunity Act (WIOA) final rules include legal aid under the list of supportive services for job seekers at American Job Centers, and HHS’s Office of Child Support Enforcement outlined opportunities to support self-help strategies for certain legal needs in their proposed rule to modernize the nation’s child support program.

WH-LAIR agencies’ policy efforts also include developing promising practices. The current centerpiece of this activity involves a Working Group on Self-Represented Parties in Administrative Hearings, launched in 2015 and co-chaired by DOJ’s ATJ and ACUS. Federal programs frequently interact with low- and moderate-income people in administrative hearings that affect people’s most basic needs—such as establishing, maintaining, or losing eligibility for food assistance, housing subsidies, medical care, and other vital public benefits. Both for agencies and program beneficiaries, it is essential to ensure the fairness and accuracy of these administrative decisions, as well as to increase the efficiency of the procedures when possible. The working group explores best practices for hearing procedures involving the self-represented, drawing on the growing body of case law, studies, and experience in the access to justice field. ACUS is also conducting a research project to develop best practices and make recommendations for Federal agencies to improve fairness and efficiency for the self-represented in administrative hearings. The project was considered by ACUS’s Committee on Administration & Management, which approved a draft recommendation. Subject to Council approval, the project will be considered by ACUS’s full Assembly at its Plenary Session in December 2016.

3) Facilitating strategic partnerships to achieve enforcement and outreach objectives

To help Federal agencies’ enforcement activities and outreach programs more effectively meet their objectives, WH-LAIR agencies partner with legal aid in various ways. As trusted community intermediaries, legal aid providers can

“Legal aid can take many forms, from helping people complete the most basic legal tasks to providing representation in court or at an agency hearing. In many of its forms—both simple and complex—legal aid is an important component of promoting efficiency and fairness in government operations.

~Matthew Wiener
Executive Director, ACUS
give agency staff on-the-ground insights and information from their client work and community engagement. Agencies like FTC, DOJ, and DOL credit their collaborations with legal aid for helping to shut down illegal practices by car dealers and bogus “work-at-home” scammers, ensuring language access for injured low-income workers and court users, and ending discriminatory school discipline practices.

Legal aid providers also help deepen Federal agencies’ outreach to low-income and underserved communities. CFPB’s collaboration with legal aid broadens the reach of valuable Federal tools like CFPB’s Your Money, Your Goals Toolkit, which helps individuals and families work through short- and long-term financial issues. Additionally, HUD, Treasury’s IRS, DOL, and SSA collaborated with Pro Bono Net, a national nonprofit organization, to raise awareness about their informational and educational materials to legal aid providers, pro bono volunteers, and self-represented litigants.

4) Advancing evidence-based research, data collection, and analysis

Consistent with the Federal government’s commitment to evidence-based policymaking and the Presidential Memorandum’s directive to “advance relevant evidence-based research, data collection, and analysis of civil legal aid and indigent defense, and promulgate best practices,” WH-LAIR agencies continue to build on early efforts to generate research and evaluate the impact of civil legal aid on their programs and overall mission, including through data collection.

In 2012, NSF sponsored a workshop entitled Access to Civil Justice: Re-Envisioning and Reinvigorating Research. The workshop identified key unanswered questions about access to justice that are central to both practice and scholarship, and opened a conversation to advance practitioner-scholar partnerships on specific research projects. The workshop, coupled with NSF’s 2013 Dear Colleague Letter: Stimulating Research Related to the Use and Functioning of the Civil Justice System, contributed to numerous and successful joint practitioner-researcher applications to NSF on a range of topics such as studying outcomes from self-help strategies and representation in housing and small claims courts.

Building on these successes, in 2015, DOJ’s ATJ and National Institute of Justice (NIJ), in collaboration with NSF, hosted a Civil Legal Aid Research Workshop to help identify a research agenda on Federal priorities at the intersection of civil legal aid, public safety, and criminal justice, including human trafficking, consumer protection, elder abuse, domestic violence, and reentry of formerly incarcerated individuals. The conveners published a report in 2016 summarizing the proceedings and the recommendations of the experts who attended, including their conclusion that the impact of civil legal aid as a tool to empower the lives of low-income people is significantly understudied. A number of key themes emerged, including a request that the Federal government improve data collection on access to justice activity and develop sound Sustainable Development Goal 16 indicators.

“W]e have come to value our partnerships with legal aid groups. They have helped us reach out to low-income consumers and those who are economically vulnerable. They play crucial front-line roles to ensure access to justice and promote financial security for consumers who may be unbanked, under-banked, or credit invisible.

~Richard Cordray
Director, CFPB
This activity and the Presidential Memorandum’s directives led to the launch of a WH-LAIR Working Group on Access to Justice Indicators and Data Collection in the summer of 2016, co-led by DOJ’s ATJ and Bureau of Justice Statistics. As described on page 12, the 2030 Agenda for Sustainable Development calls for the creation of international, national, and regional indicators for all of its goals. WH-LAIR’s narrower charge relates to SDG 16, and the working group is presently focusing on identifying national indicators for target 16.3. The working group received valuable input from a September 2016 Civil Society Consultation on Access to Justice Indicators and Data Collection attended by access to justice experts from across the country.
WH-LAIR and the Open Government Partnership

Launched in 2011 by the United States and seven other countries, the Open Government Partnership (OGP) has grown to a 70-country initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. In the third U.S. Open Government National Action Plan released in October 2015 and its update released in September 2016, WH-LAIR’s activities and collaboration with civil society were included as a national commitment on access to justice.20

In keeping with the OGP principles, WH-LAIR has collaborated extensively with civil society both to share its work and learn about the needs of the legal aid community and the people they serve. WH-LAIR has promoted transparency and citizenry empowerment through its active participation in consultations and workshops and through presentations, as well as the publication of the WH-LAIR Toolkit and website.

Working with Civil Society. As documented in Appendix B, WH-LAIR has presented on its goals and activities and how legal aid helps to address national problems like elder abuse and consumer fraud to a number of civil society organizations. WH-LAIR agencies also held listening sessions and gathered information about legal aid’s role in disaster response and affordable housing. Additionally, civil society consultations with access to justice experts have served a valuable role in helping WH-LAIR agencies understand their views.

In recognition of WH-LAIR’s collaborative efforts, two civil society organizations have bestowed prestigious awards on WH-LAIR: the 2014 National Legal Aid and Defender Association’s Justice Through Government Service Award and the 2016 National Center for Medical-Legal Partnership’s Medical-Legal Partnership Leadership Award.

Publishing WH-LAIR Toolkit and Website. Originally launched in 2014, the Toolkit was re-issued as the WH-LAIR Toolkit in 2016 with updated content to its three sections:

- Civil Legal Aid 101: an overview of what civil legal aid is and some of the common barriers to accessing civil legal aid
- Case Studies: a series of papers on how legal aid supports a wide range of Federal priorities
- Federal Agency Resources: a listing of more than 100 Federal grants and program activities for which civil legal aid providers are an eligible grantee, sub-grantee, or partner, along with other examples of Federal resources helpful to civil legal aid programs and the people they serve.

The WH-LAIR website also features the Presidential Memorandum, Federal publications of interest to legal aid programs, and periodic blogs about WH-LAIR activities.
PART II: LEGAL AID ADVANCING FEDERAL PRIORITIES

Part II of the Report highlights Federal agencies’ work to advance WH-LAIR’s mission: to improve the outcomes of Federal programs that serve low-income and other vulnerable populations and safeguard their rights by incorporating civil legal aid. The Report first addresses six Federal priorities related to WH-LAIR’s mission:

➢ Accessing health services and improving health
➢ Expanding access to housing and preventing homelessness
➢ Strengthening families and keeping children in school
➢ Keeping Americans working
➢ Enhancing public safety and helping crime victims
➢ Combatting fraud and protecting consumers

The Report then turns to agencies’ efforts to partner with legal aid organizations to meet the needs of special populations:

➢ Veterans and servicemembers
➢ Tribes and tribal members
➢ People with disabilities
➢ People with criminal records
➢ Immigrants
➢ Disaster survivors

The Federal activities highlighted in Part II represent both the activities that were inspired by or directly resulted from the agencies’ participation in WH-LAIR, and those that began prior to the launch of WH-LAIR but are aligned with WH-LAIR’s mission. By capturing the most notable of all those activities, this Report seeks to be a comprehensive resource for Federal agencies and the public to learn about how WH-LAIR agencies are using legal aid to improve their programs and better serve low-income and vulnerable people.
PART II: LEGAL AID ADVANCING FEDERAL PRIORITIES

Civil legal aid ensures that more Americans have access to good nutrition, safe housing and other basic human necessities that are essential to overall health and well-being. It also plays a key role in HHS’ efforts to provide our most vulnerable citizens with access to quality, affordable health care services.

~Sylvia Mathews Burwell
Secretary, HHS

ACCESSING HEALTH SERVICES AND IMPROVING HEALTH

Many vulnerable and low-income individuals face serious obstacles to accessing health services and improving health. These include high costs, no insurance, cultural and linguistic barriers, and the lack of community-based preventative services, primary care, and treatment for mental health conditions and substance use disorders. The lack of access to preventive services and treatments often leads to an increase in avoidable long-term medical expenditures and a decrease in overall health. This also harms society at large by lowering productivity and placing an increased burden on the health care system.

People of color and low-income individuals are among those most likely to be uninsured and less likely to receive necessary health care. Uninsured individuals are more likely to delay or forgo necessary health services, which can lead to more serious conditions and can result in hospitalizations from preventable health problems.

HHS and other Federal agencies increasingly recognize the impact of social conditions on health outcomes and legal aid’s role in addressing these conditions. These agencies now encourage legal aid providers to collaborate with health care teams to detect, address, and prevent health-harming social conditions that have their roots in legal problems. Legal aid can help secure health care coverage or health benefits by appealing erroneous administrative denials of benefits or insurance. Through legal clinics in medical facilities and medical-legal partnerships (MLPs), legal aid can improve patient health by, for example, addressing substandard housing conditions such as mold, rodent, or insect infestations that increase use of costly emergency room visits for asthma attacks. Legal aid also helps prepare legal documents to ensure patients’ wishes are met, such as living wills and powers of attorney for medical care and financial affairs.

WH-LAIR promotes evidence-backed innovations such as MLPs and supports Federal agencies’ efforts to incorporate legal aid to help vulnerable and low-income people access health services and improve health.

Examples of WH-LAIR agencies’ efforts in this area include:

➢ HHS clarifies that community health centers can provide health-related legal aid. In recognition of the link between health and legal needs for vulnerable and low-income populations, in 2014, HHS’s Health Resources and Services Administration (HRSA) clarified that legal aid may be included in the range of “enabling services” that HRSA-funded health centers can provide to meet the primary care needs of the population and communities they serve. Subsequently, the FY 2015 Expanded Services Supplement Funding opportunity allowed health centers to propose enabling services that could be supported with the funding, which could include access to legal services for patients.

Research says:

HHS-funded pilot medical-legal partnership study concludes:

“...civil legal aid services can positively impact individual and population health,” including “significant reduction in stress and improvement in health and wellbeing after receiving [legal] services” such as for housing, public and disability benefits, employment, and debt collection problems. Researchers also found integrating legal services into the healthcare setting “drives down healthcare costs.”

➢ HHS provides training and technical assistance to community health centers (CHCs) and legal aid to develop and strengthen MLPs. HHS’s HRSA awarded a national cooperative agreement to the National Center for Medical-Legal Partnership (NCMLP) to support the growth of quality MLPs in CHCs. NCMLP provides webinars and other training as well as consults with CHCs’ staff to build awareness of patients’ legal needs and the MLP model and to strengthen the capacity of those CHCs that were early adopters of the MLP. NCMLP has provided specialized assistance to dozens of CHCs and reached many more through webinars and issue papers.

➢ VA establishes MLP Taskforce to increase access to legal aid in VA healthcare facilities. In 2016, VA created a department-wide MLP Taskforce to guide and encourage the growth of MLPs throughout VA healthcare facilities. Currently with at least 12 MLPs in six different states, the VA MLP Taskforce offers regular training sessions for potential new MLP sites, and is developing a VA-specific MLP toolkit for VA clinicians and staff.

➢ HHS clarifies that Ryan White HIV/AIDS Program services can include legal aid. The policy guidance from HHS’s HRSA regarding allowable uses of funds includes legal services to or on behalf of the individual living with HIV/AIDS for legal matters related to or arising from their disease, such as assistance with public benefits and preparation of living wills.

➢ HHS’s healthcare outreach programs include legal aid programs among their grantees. HHS’s Centers for Medicare & Medicaid Services (CMS) funds the Connecting Kids to Coverage program that supports efforts to reach out to families with children eligible for Medicaid and the Children’s Health Insurance Program, and helps get them covered. The 2016 grant awardees included several legal aid programs. Additionally, the Navigator program supports in-person assistance for consumers who are shopping for and enrolling in coverage through a Health Insurance Marketplace. The 2016 grant awardees include legal aid programs.

➢ HHS is developing a model fair hearing request form for Medicaid program participants. Participants have the right to a hearing when the Medicaid agency has taken an adverse action against an individual, but may not know how to ask for a hearing. HHS’s CMS is developing a model Medicaid fair hearing request form that can be used by states and other stakeholders.

➢ LSC funds a Healthy Justice Partnership Project in New Orleans to launch an MLP and increase pro bono legal services. In 2015, LSC awarded a pro bono grant to Southeast Louisiana Legal Services and its partner organizations to launch an MLP integrating legal aid and healthcare in eight community-based health clinics. The MLP will increase access to legal aid through new and expanded pro bono services delivered by volunteer lawyers, paralegals, and law students; provide services on critical disability, Medicaid, and housing issues; and seek to measure improved health and legal outcomes under the project.

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Careworker gets needed benefits through legal aid

For 35 years, “Maxine” guided nursing home patients through their daily routines of getting up, getting dressed, eating and bathing. Being a Nurse’s Aide was the only job she knew, but after coming down with a serious illness and breaking her hand, Maxine could no longer work. With no income, Maxine lost her home. After getting denied Social Security disability benefits, Maxine spent two years sleeping in shelters, friends’ homes, or her car. With no home and no way to work, her doctor at the HHS-funded Council Bluffs Community Health Center referred her to a medical-legal partnership attorney at LSC-funded Iowa Legal Aid. The attorney worked with Maxine’s doctor to properly document Maxine’s many medical issues, successfully appealing to the Social Security Administration. With more than $800 a month in disability benefits, as well as a lump sum for back benefits, Maxine moved into a new home. Iowa Legal Aid’s work also enabled her to obtain retroactive coverage of Medicaid, which allowed Medicaid to cover care delivered by the Council Bluffs Community Health Center that was previously uncompensated.
EXPANDING ACCESS TO HOUSING AND PREVENTING HOMELESSNESS

On any given night, more than a half-million people in the United States are homeless — sleeping outside, in an emergency shelter or a transitional housing program. Among them, about 36 percent are families with children.

While some experience homelessness, others struggle to hold on to their homes. The situation has been exacerbated by the recent recession and foreclosure crisis. Foreclosure-rescue and mortgage-modification scammers prey on struggling homeowners by making promises they cannot keep, such as guaranteeing to “save” a home or lower the mortgage, usually for a fee. And many low-income tenants face evictions or substandard living conditions.

To address these obstacles to stable housing, many Federal programs provide services to Americans in need, including legal aid that effectively addresses barriers to housing and advances program goals. For example, legal aid can help by preventing unlawful evictions of tenants in government-subsidized housing, private housing, or foreclosure properties, assisting with utility-related issues, and by stopping landlords from taking advantage of post-disaster conditions. Legal aid also educates, advises, and represents families in foreclosure proceedings, and helps remove obstacles to permanent housing by removing or mitigating old criminal records and correcting credit histories.

WH-LAIR assists Federal agencies’ efforts to address homelessness and increase access to housing for the vulnerable and underserved by identifying opportunities to include legal aid in housing-related services and to partner with legal aid to support government enforcement activities.

Examples of WH-LAIR agencies’ efforts in this area include:

➢ HUD’s Community Development Block Grant (CDBG) program allows using funds for legal aid necessary to access affordable housing. The CDBG program provides communities with resources to address a wide range of community development needs. It funds services to ensure decent affordable housing, provides public services to the most vulnerable in our communities, and creates jobs through the expansion and retention of businesses. Legal services are an allowable use of CDBG funds.

➢ HUD’s Emergency Solutions Grants (ESG) program allows using funds for legal aid necessary to regain housing stability. The ESG program provides grants to states and local government to carry out various activities to assist families and individuals who are homeless or at risk of homelessness. The eligible activities include legal services for homeless families and individuals in emergency shelters (if other appropriate legal services are unavailable or inaccessible) and legal services necessary to help eligible families and individuals obtain permanent housing or regain stability in that housing.
PART II: LEGAL AID ADVANCING FEDERAL PRIORITIES

➢ VA’s Supportive Services for Veteran Families (SSVF) Program includes legal aid among the supportive services provided to veterans and their families with housing needs. In an effort to improve very low-income veteran families’ housing stability, SSVF grantees provide eligible families with outreach, case management, and assistance in obtaining VA and other benefits. In 2015, over 30% of SSVF grantees provided legal aid to the veteran families they serve.

➢ CNCS and HUD fund the VISTA Affordable Housing Preservation Project (VAHPP) to preserve, maintain, and improve Federally subsidized housing through legal aid and other services. In 2016-2017, 45 VISTA (Volunteers In Service To America) members in this program will serve more than 18,000 low-income families living in Federally subsidized housing in at least 15 cities through legal support and community organizing. To raise awareness about VISTA and legal aid generally, CNCS and DOJ published the Guide to the AmeriCorps VISTA Program for Legal Services Organizations.

➢ HUD’s Fair Housing Initiatives Program (FHIP) supports legal aid to enforce fair housing laws. FHIP provides funding to fair housing enforcement organizations to assist people who believe they have been victims of housing discrimination. FHIP organizations, including legal aid programs, partner with HUD to provide legal assistance and refer people to other HUD-certified state or local government agencies that handle complaints of housing discrimination.

➢ DOJ collaborates with legal aid providers to enforce the Fair Housing Act by bringing actions to redress discriminatory housing practices. Many enforcement actions by DOJ’s Civil Rights Division involve practices that threaten the housing rights of very low-income persons who, without access to housing, are in danger of being homeless. These include cases on behalf of low-income women who face sexual harassment by their landlords or by the official who administers their housing subsidies; enforcement actions against local governments that try to exclude group homes and transitional housing for people with disabilities who are at risk of becoming homeless or being institutionalized; and investigations and enforcement actions involving exclusionary zoning practices that restrict the development of and access to affordable or low-income housing for families.

➢ HUD’s Jobs Plus program addresses entrenched poverty among public housing residents through a number of supportive services, including legal aid. The Jobs Plus program offers targeted housing developments with various incentives and supports including employer linkages, job placement and counseling, educational advancement, and financial counseling. The types of legal aid services that may be provided with grant funds include helping people with expunging old criminal records.

➢ HUD is developing guidance for Public Housing Authorities (PHAs) that will identify best practices related to subsidized lease grievances and hearings. HUD recognizes that there may be differences among PHAs in how they conduct lease termination proceedings, many of which involve tenants without legal assistance, and wants to ensure compliance with HUD’s regulations, increase uniformity among PHAs, and share best practices.

Research says:

2/3 of low-income tenants receiving full legal representation in eviction cases stayed in their homes as compared to 1/3 of unrepresented tenants. Represented tenants also received almost five times the financial benefit, such as damages or cancellation of past due rent, as those without full representation.

Source: Boston Bar Association Task Force on the Civil Right to Counsel, The Importance of Representation in Eviction Cases and Homelessness Prevention 2 (2012)
Legal aid lawyers play a unique and critical role in protecting the rights of children and families, and access to legal services can make the difference in preventing homelessness, helping families stay together, and helping parents get jobs to support their families.

~Mark Greenberg
Acting Assistant Secretary
HHS Administration for Children and Families

Legal aid supports Federal civil rights enforcement for school children

DOJ’s Civil Rights Division received significant assistance from the Legal Aid Society of Palm Beach County with an investigation of the School District of Palm Beach County, Florida, into complaints that the District failed to enroll children based on their or their parents’ national origin or immigration status, and that its system of discipline discriminated against students based on national origin and limited English proficiency. The investigation resulted in a pathbreaking settlement between the District and DOJ to prevent and address discrimination in school enrollment, student discipline, and policing.

STRENGTHENING FAMILIES AND KEEPING CHILDREN IN SCHOOL

Today, poverty continues to strain family stability and impede the education of our children. The difficult challenges of substance use disorders, mental health conditions, and domestic violence, often occurring together, bring additional stresses to families that may lead to government removal of children from their parents and placement in the child welfare system, a system that struggles with racial disproportionality and has been found to achieve poor outcomes for children and families.

At the same time, America’s prison population has grown dramatically over several decades, increasing the number of children with incarcerated parents, and 2.7 million children in the United States now have at least one parent in prison. Likewise, our public schools continue to face challenges in providing a safe, inclusive, and positive school environment for our most vulnerable, and often impoverished, students. In the 2013-2014 school year, black boys were subjected to suspensions and expulsions at a rate three times higher than that of the overall student body. Moreover, two-thirds of students who faced disciplinary physical restraint or seclusion were students with disabilities.

Federal agencies work on multiple fronts to address the needs of vulnerable and low-income families and children. They administer public benefits programs, oversee the child support enforcement program, fund services for youth involved in the criminal justice system, provide funding and technical assistance to improve the quality of legal representation for parents and children in child welfare proceedings, and provide support to state and local educational programs. Many of these programs partner with legal aid to improve their program outcomes.

Legal aid assists families that need access to public benefits by helping to determine eligibility, complete applications, and appeal erroneous denials or reductions. When child support is at issue, legal aid helps enforce or modify child support orders to secure payments or adjust the amounts when necessary. In addition, to keep children in school, legal aid can explain education laws and school discipline policies to families and propose alternatives to potentially harmful policies of expulsion, lengthy time away from school, and referral to the criminal justice system for non-violent behavioral issues. Legal aid can also advise and represent parents of children with special needs to ensure schools provide them with services. Homeless and foster youth can remain in their schools of origin with the help of legal aid when their living situations change. Legal aid can also remove barriers to learning by addressing immigration, consumer fraud, debt, housing, health, and domestic violence issues.

WH-LAIR supports Federal agencies’ efforts to partner with legal aid in their programs to strengthen family stability and support education by helping families to access public benefits, child support, and other critical services.
Examples of WH-LAIR agencies’ efforts in this area include:

➢ HHS’s Office of Child Support Enforcement (OCSE) includes legal aid and self-help resources to improve child support compliance. OCSE, an office within HHS’s Administration for Children and Families (ACF), promotes responsible parenting and family self-sufficiency by working to ensure that both custodial and non-custodial parents are able to provide for their children. OCSE now expressly allows states to include legal aid in programs that provide an alternative to civil contempt for nonpayment of child support in order to improve compliance and regular payments, thereby increasing parents’ trust and confidence in the child support process. OCSE also issued a memorandum in 2013 for its Parenting Time Opportunities to Children program clarifying that partnering with legal aid is a permissible activity within the program. OCSE plans to provide extensive training and technical assistance to state child support agencies, including opportunities to support self-help for certain legal needs, following the publication of their final rule to modernize the nation’s child support program and increase its flexibility and efficiency in securing reliable support for families.

➢ HHS clarifies its program language to allow legal aid as part of their services to vulnerable children and families. For FY 2016, HHS’s ACF added clarifying language allowing legal aid as a component of a collaborative practice or strategy to address issues facing children and families experiencing domestic violence, address human trafficking within the child welfare population, and support implementation of the Indian Child Welfare Act.

➢ HHS is working to improve the quality of legal representation for children and parents in child welfare proceedings. The Court Improvement Program, administered by the Children’s Bureau, within the Administration for Children Youth and Families (ACYF) of HHS’s ACF, is working to improve the quality of legal representation for children and parents in child welfare proceedings across the country by supporting research, training, and data analysis efforts, and providing technical assistance to judges and attorneys. ACYF is developing guidance strongly encouraging all state and local child welfare agencies and Court Improvement Programs to work together to ensure that all parties in child welfare proceedings receive high-quality legal representation at all stages of a case.

➢ ED’s program to improve the educational and developmental outcomes of children in distressed communities allows using program funds for legal aid among other services. ED’s Promise Neighborhoods Program works to create a continuum of services that improve the educational and developmental outcomes of children and youth in our most distressed communities through a variety of services including legal aid.

Research says:

In cases where a barrier to education was an issue for low-income children—such as suspension or expulsion, lack of appropriate supports for children with special needs, lack of language accommodation, and refusal to enroll, especially for homeless children—LSC-funded Legal Aid Society of Cleveland was successful in removing that barrier in 85% of those cases, helping to ensure that children stay in school and on a path to a better life.

Father and daughter get parenting support from legal aid

“Daron” was a dedicated father to his young daughter, for whom he regularly paid child support. When his work schedule was reduced and his earnings dropped, he sought help from the Alameda County Superior Court Family Law Facilitator’s office, which is funded in part by HHS/ACF’s Child Support Enforcement Program. A staff attorney there helped him request a modified child support order that would reflect his pay cut. The lawyer then explained how Daron could also request increased visitation time with his daughter and take on more parenting responsibility. Staff from the court Family Law Facilitator’s Office attended the hearing to provide legal information and procedural guidance to Daron. The court made the proposed changes and Daron’s payments were reduced to an amount that he could afford. He also began picking his daughter up from school and eating dinner with her twice a week, before returning her to her mother.

DOJ’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) oversees programs that include legal aid to support young fathers and justice-involved youth. OJJDP administers the Second Chance Act Strengthening Relationships Between Young Fathers and Their Children: A Reentry Mentoring Project, which helps young fathers transition from secure confinement facilities back to their families by providing mentoring and employment assistance, including legal aid.

HHS, ED, and SSA fund Protection and Advocacy (P&A) System programs that provide advocacy services to children and adults with disabilities. P&A programs are independent state-based programs that provide legal representation and other advocacy services to persons with disabilities, including individuals with developmental disabilities, mental illness, and other impairments, such as visual or hearing impairments.

USDA releases a Supplemental Nutrition Assistance Program (SNAP) guidance package to share best practices with states. USDA developed guidance on informing SNAP (formerly known as food stamps) clients about their rights, including the right to a fair hearing, in all written correspondence. These practices by USDA’s Food and Nutrition Service in 2015 were designed to help SNAP participants and applicants, including families and their children, as well as state agencies administering the program, better understand their responsibilities.
KEEPING AMERICANS WORKING

Every American who wants a job should be able to work, and those who lose their jobs should be assisted in getting back to work. While our economy is growing, too many Americans still face challenges securing employment or addressing job-related issues while employed. In particular, those re-entering the workforce after incarceration face significant barriers to employment. Many people with steady employment also face hardships. Some employers misclassify workers and call them independent contractors instead of employees, depriving them of critical protections including family and medical leave, overtime, minimum wage, and unemployment insurance. Additionally, many people—looking for employment or already on the job—find themselves victims of illegal discrimination based on race, color, sex, national origin, religion, age, sexual orientation, gender identity, disability, or genetic information.

Recognizing the importance of employment in lifting Americans out of poverty, DOL and other Federal agencies fund various programs to help American workers and the unemployed, and many of them partner with legal aid. Legal aid helps workers secure the wages and benefits they are entitled to by representing employees at administrative hearings and helps ensure safety in the workplace. Legal aid also assists those with criminal records by helping to expunge or seal old records, reinstate a revoked or suspended driver’s license, untangle outstanding court debt issues, modify child support orders, and secure certificates of rehabilitation, dramatically increasing their ability to obtain and keep a job. In addition, job seekers or employees who are discriminated against in the workplace can turn to legal aid for help.33

WH-LAIR works with EEOC, DOL, and other Federal agencies to incorporate legal aid into their programs to improve outcomes by helping remove barriers to employment and protecting workers from an unsafe work environment, denial of benefits, and fraud.

Examples of WH-LAIR agencies’ efforts in this area include:

➢ DOL’s new Workforce Innovation and Opportunity Act’s final rules for American Job Centers include legal aid among services that can be offered to help job seekers. Rules published in 2016 to implement the Workforce Innovation and Opportunities Act list legal aid among the services American Job Centers—also known as One Stop Career Centers—can provide to help youth, adults, and dislocated workers secure employment.

➢ HHS makes clear that states can use Temporary Assistance for Needy Families (TANF) funds for employment-related legal assistance. The TANF program, administered by HHS’s Administration for Children and Families, Office of Family Assistance, provides funds to states to help needy families achieve self-sufficiency and provide support for job preparation and employment in addition to other services. HHS has clarified that states may use TANF funds to help resolve legal problems that are a threat to family stability or undermine the employment of needy parents and youth.34

Research says:

Evidence suggests that legal interventions such as expungement and reducing a felony to a misdemeanor stem the decline in earnings and may even boost earnings for people returning from a period of incarceration. Halting the decline in earnings suggests that the interventions make a meaningful difference in people’s lives and are key components of an effective employment reentry strategy.

Source: Jeffrey Selbin & Justin McCrary, Got Clean Slate? New Study Suggests that Criminal Record Clearing May Increase Earnings (2014)
PART II: LEGAL AID ADVANCING FEDERAL PRIORITIES

➢ VA’s Supportive Services for Veteran Families (SSVF) program allows using program funds for legal aid for issues that affect a veteran’s employability. The SSVF program promotes housing stability among very low-income veteran families residing in or transitioning to permanent housing and provides a range of supportive services, including legal aid, to eligible veteran families. Recognizing that multiple legal needs are among the highest unmet needs for very low-income and homeless veterans, VA encourages SSVF program grantees to provide, or assist participants in obtaining, legal aid in order to help remove obstacles to employment when it can help with permanent housing.

➢ DOL’s program for ensuring workplace safety includes legal aid trainers. Legal aid programs are among the awardees of DOL’s Susan Harwood Training Grant to train and educate workers and employers about ensuring safety in the workplace. This program provides training and education for workers and employers on the recognition, avoidance, and prevention of safety and health hazards in their workplaces, and the obligation to inform workers of their rights and employers of their responsibilities under the Occupational Safety and Health Act. Target audiences include underserved and low-literacy employees and workers in high-hazard industries.

➢ EEOC collaborates with legal aid to provide training and to learn about employment discrimination-related issues in communities. EEOC’s field offices are working to strengthen their partnership with local legal aid offices to conduct outreach for employers and employees, train legal aid staff about the laws enforced by the EEOC, and identify employment discrimination-related issues, problems, or concerns that legal aid staff encounter in their communities.

➢ DOJ and DOL expand legal aid to address collateral consequences for people with criminal records. Several large grant programs—such as the DOJ Second Chance Act (SCA) grants and DOL Reentry Employment Opportunities (REO) grants—now allow for the use of Federal funds to pay for legal assistance to secure driver’s licenses, expunge old criminal records, modify child support orders, and litigate inappropriate denials of housing or employment and violations of the Fair Credit Reporting Act for people returning to their communities from a period of incarceration.

➢ DOL develops a “Know Your Rights” video series in English and Spanish covering topics common to legal aid clients. DOL’s Wage and Hour Division developed the “Know Your Rights” video series in English and Spanish to provide workers with useful basic information in different scenarios that workers encounter in the workplace. DOL’s Occupational Safety & Health Administration also produced the “Workers’ Safety and Health Rights on the Job” video that legal aid or other service providers can show in waiting rooms or other similar areas.
➢ DOL issues guidance on the state-administered Unemployment Insurance (UI) program to ensure access to unemployment benefits regardless of one’s disability, language limitations, age, or race. DOL is actively promoting improved state processes for the UI program pursuant to the guidance. DOL also has instituted new accountability processes that include a new mandatory self-assessment tool for states to ensure they have necessary operational processes for customer access to UI program services.

➢ DOJ trains legal aid providers on legal protections for immigrant workers. In 2016, DOJ’s Civil Rights Division has conducted in-person presentations to several legal aid organizations nationwide on employment discrimination based on citizenship, immigration status, and national origin. These presentations provide legal aid staff with information about worker protections under the statutes that DOJ enforces and how to file complaints, as well as free resources that are available to legal aid organizations.

➢ LSC funds a “Lawyers for Entrepreneurs Project” to help low-income entrepreneurs starting or expanding community businesses. In 2015, LSC awarded a pro bono grant to Legal Services of Eastern Missouri to leverage the resources and skills of attorneys to provide free legal assistance and education to low-income entrepreneurs starting or expanding community businesses, with an emphasis on minority and women entrepreneurs who have limited access to capital.
PART II: LEGAL AID ADVANCING FEDERAL PRIORITIES

ENHANCING PUBLIC SAFETY AND HELPING CRIME VICTIMS

Millions of people in the United States are victims of crime. More than one in three women in the United States has been the victim of domestic violence; approximately 10% of people age 60 and older and close to 50% of people with dementia are victims of elder abuse; and over 20 million people around the world, including in the United States, are subjected to forced labor and sex trafficking. Low-income communities, particularly communities of color, are among those that experience the highest crime rates in our country. These communities feel the impact of crime acutely while also experiencing a criminal justice system that often fails to provide indigent defendants with the legal assistance they are entitled to. Crime victims also encounter challenges navigating the justice process, which can impact their sense of fairness, satisfaction, and safety. Many receive little to no assistance understanding and asserting their rights, including to be heard and to participate. To ensure public safety, crime victims and their families need help to regain a sense of normalcy in their lives; communities need to take action to prevent and deter crime; and indigent defendants need competent counsel and access to appropriate services to ensure the fair administration of justice and reduce recidivism.

Many WH-LAIR agencies have developed programs to address the staggering number of crime victims, including victims of domestic violence, elder abuse, and human trafficking. Because legal aid is critical to meet victims’ short- and long-term needs and can help keep communities safe, many relevant Federal programs include legal aid. Legal aid helps victims of crime with a range of services to stabilize their lives, including by helping them secure housing, medical assistance, public benefits, immigration relief, education, employment, and child custody orders. Additionally, legal aid helps secure visas for immigrant victims of crime like domestic violence and human trafficking and identifies recurring problems that can lead to involvement in the criminal justice system. Legal aid also prevents future incidents of violence by obtaining, renewing, and enforcing protective orders for clients, providing resources to law enforcement and holding perpetrators accountable.

Some WH-LAIR agencies also help law enforcement prevent crime and keep our communities safe while at the same time ensuring that our criminal justice system treats defendants fairly by providing effective assistance of counsel. This is particularly important given the collateral consequences of being involved in the criminal justice system and the subsequent civil justice problems that can often arise.

WH-LAIR supports Federal agencies incorporating legal aid into their victim services and crime prevention programs and similar efforts supporting indigent defense to strengthen the criminal justice system, both of which are important tools to promote the stability necessary to preventing future crime.
Examples of WH-LAIR agencies’ efforts in this area include:

➢ DOJ publishes a rule for the Victims of Crime Act (VOCA) Formula Victim Assistance Grant Program to help address the unmet legal needs of crime victims. Consistent with its 2013 Vision 21 Transforming Victim Services Report, which documented crime victims’ legal needs, in 2016 DOJ’s Office for Victims of Crime (OVC) published the rule for its VOCA Formula Victim Assistance Grant Program, providing greater clarity and more flexibility for state agencies to fund comprehensive legal aid among various victim services.⁴⁰

➢ CNCS and DOJ launch Elder Justice AmeriCorps to help elder abuse victims. In 2016, through Elder Justice AmeriCorps, CNCS and DOJ created the first-ever army of lawyers and paralegals to help victims of elder abuse. The program will support 300 AmeriCorps members throughout the country, and grantee Equal Justice Works expects to serve more than 8,000 older adults over the next two years. To raise awareness about AmeriCorps and legal aid generally, CNCS and DOJ published the FY 2016 Guide to the AmeriCorps State and National Program for Legal Aid Organizations.

➢ DOJ obtains legislative changes to provide legal aid to victims of domestic violence, dating violence, sexual assault, and stalking. Prior to the passage of the Violence Against Women Reauthorization Act (VAWA) of 2013, DOJ’s Office on Violence Against Women (OVW) conducted a review of VAWA programs in light of studies confirming the importance of legal aid in preventing and addressing domestic violence. The review resulted in legislation authorizing certain grant programs to allow funds to be used for legal aid, such as OVW’s Rural, STOP Violence Against Women Formula Grant, and Justice for Families Programs.

➢ DOJ’s Legal Assistance for Victims (LAV) Program serves more than 25,000 victims every six months. DOJ OVW’s LAV Program helps address the critical shortage of legal services for victims of domestic violence, dating violence, sexual assault, and stalking. With LAV funding, legal aid providers obtain protection orders and address associated legal issues like divorce and child custody. LAV is one of OVW’s most competitive grant programs, with more strong applications than can be funded with available resources.

➢ HHS and DOJ fund legal aid to help human trafficking victims, and DOJ provides training and technical assistance to enhance such legal services. HHS’s Office on Trafficking in Persons funds comprehensive case management for trafficking victims and grants for victim-centered services, including legal aid. The HHS-funded National Human Trafficking Resource Center provides referrals for legal services and other resources for victims of trafficking across the country. DOJ’s OVC funds legal aid for human trafficking victims through several different anti-trafficking programs.

Lawyer preserves essential healthcare and housing for grandmother

When 92-year-old “Sara’s” health declined, she moved from assisted living to a 24-hour care nursing home. During the move it was discovered that Sara’s grandson financially exploited her and that he had taken about $96,000. Because of that transfer of assets, Sara was denied Medicaid coverage for her nursing facility services, and the nursing home issued her an involuntary discharge notice. Illinois’ Long Term Care Ombudsman referred Sara to LSC-funded Prairie State Legal Services. Funded in part by an HHS Older Americans Act grant, her legal aid attorney successfully appealed and obtained a Hardship Waiver from the state’s Medicaid administrator so Sara could stay housed with the care she needed. Later when Sara became incapacitated, her legal aid attorney secured a state guardian to prevent further abuse by the grandson and cooperated with the criminal investigation.
as well as training and technical assistance for legal aid to expand access to comprehensive legal services for victims of human trafficking and vacatur remedies for trafficking survivors.

➢ LSC’s Technology Initiative Grants (TIG) support innovative strategies to partner with police and help victims of domestic violence. Using 2012 TIG funds, a California legal aid program created an e-filing tool for domestic violence protective order requests so that judges can issue a final order more quickly. The tool also makes the issued order available right away to the protected party as well as to police or sheriff’s offices for immediate enforcement.

➢ DOJ provides wraparound legal services to victims of crime through a demonstration project and conducts comprehensive evaluation of the project. In 2012, DOJ’s OVC launched the Wraparound Victim Legal Assistance Network Demonstration Project to develop holistic models for wraparound legal assistance networks that offer free legal assistance that victims need in the wake of their victimization. DOJ’s National Institute of Justice is conducting a comprehensive independent evaluation of the project. In 2014, DOJ’s OVC expanded this project to four additional sites and currently funds training and technical assistance to the legal service providers under this project.

➢ DOJ launches initiatives to build legal aid capacity to help crime victims. DOJ OVC’s Training and Technical Assistance Center works collaboratively with national experts and offers training and technical assistance to the legal community in order to increase their knowledge base about crime victim issues and increase their capacity to provide pro bono legal representation to crime victims. Also, DOJ’s Elder Justice Initiative, in collaboration with DOJ’s OVC and ATJ, launched an online elder abuse training for legal aid to assist victims of elder abuse, neglect, and financial exploitation.

➢ NSF and DOJ support the research community in identifying and seeking to fill research needs in indigent defense and access to justice. In 2015, NSF funded a workshop on “Quality Legal Representation: Definition, Measurement, Theory and Practice.” Additional white papers and new research projects continue to flow from this workshop. DOJ’s NIJ has also actively supported research on indigent defense and funded projects on topics such as Waiver of Counsel in Juvenile Court, Evaluating the Effect of Holistic Indigent Defense Services on Case Outcomes, and Examining the Effectiveness of Indigent Defense Team Services: A Multi-State Evaluation of Holistic Defense.

➢ State, USAID, and DOJ collaborate to promote creation of the first global network of defenders. In May 2016, the United Nations Commission on Crime Prevention and Criminal Justice adopted a U.S.-sponsored resolution on criminal legal aid entitled, “Promoting Legal Aid, Including through a Network of Legal Aid Providers.” The resolution took steps to advance practical collaboration in the criminal legal aid field, such as:
(1) encouraging governments to exchange information and best practices, including on the development of national-level indicators on SDG 16 and its target 16.3, (2) endorsing the creation of national, regional, and international networks of criminal legal aid providers, and (3) inviting United Nations Member States to participate in the second international criminal legal aid conference in Argentina in November 2016. The resolution was adopted by consensus and co-sponsored by 17 countries. Efforts are underway to support implementation of the resolution.

➢ **USAID supports mapping of legal aid providers.** Through the Civil Society Innovation Initiative, part of the Stand with Civil Society Agenda, USAID supports a Global Legal Aid Mapping Project that will develop a mobile app to connect legal aid service providers with individuals and communities in need of timely legal aid representation and other legal services.

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**Research says:**

**Police partnership with legal aid helps decrease incidence of domestic violence**

The High Point Police Department partnered with LSC-funded Legal Aid of North Carolina, Family Service of the Piedmont, and other community groups to open the High Point Center for Children and Families and Victims’ Justice as part of the DOJ COPS-funded Offender Focused Domestic Violence Initiative (OFDVI). OFDVI focuses on early intervention to break the cycle of domestic violence and helps victims with their civil legal needs, such as obtaining protective orders. Within the first two years of the OFDVI, recidivism rates - which typically range from 20-34% - decreased to 9% across more than 1,000 offenders.


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"Research tells us that effective legal representation is the single most important factor in whether victims are able to escape this domestic violence cycle. Yet, studies estimate that less than 1 in 5 low-income victims of domestic violence ever get to see a lawyer."

~Vice President Joe Biden
Each year, approximately 25 million adults are victims of consumer fraud. Victims include the poor, the elderly, and other vulnerable populations. In the worst cases, fraud can lead to homelessness and bankruptcy. The shame of being defrauded inhibits some victims from reporting scams and seeking help. Although anyone may be susceptible to abusive practices, the most vulnerable among us are often the target of mortgage scams, Ponzi schemes, abusive debt collection practices, and predatory lending schemes. In particular, older adults are targeted for their retirement savings and accumulated home equity, and because they also are more likely to experience cognitive decline, they can be more susceptible to financial scams.

Identity theft also threatens consumers. In 2015, FTC received almost half a million identity theft complaints, and identity theft was included among the third most common credit card complaints made to CFPB. There are over 17 million new victims annually, with devastating consequences, including tax problems, lowered credit ratings, lawsuits, and garnishment. Children are also victims. A study of 40,000 children found that about 10% had someone else using their Social Security Number.

Federal agencies charged with protecting consumers, such as FTC, CFPB, and DOJ, combat fraud through enforcement actions (including investigations and lawsuits) as well as educating the public on consumer protection issues. Many of these Federal programs are more effective because of partnerships with legal aid providers that help consumers assert their rights when businesses, lenders, or debt collectors have not followed the law. Legal aid can also help correct the harms caused by identity theft or credit reporting errors and can assist with reporting consumer complaints to the appropriate government agencies. Outreach and education are important strategies for legal aid to help people spot and avoid abusive tactics.

WH-LAIR supports Federal agencies’ efforts to combat fraud and protect consumers through strategic partnerships with legal aid in their enforcement activities and education and outreach initiatives.

Examples of WH-LAIR agencies’ efforts in this area include:

➢ FTC develops the Legal Services Collaboration, a nationwide and institutionalized partnership with legal aid. In 2010, FTC launched the Legal Services Collaboration because it recognized that, by forming robust relationships with advocates for poor and underserved communities, it can more effectively fight deceptive practices affecting those communities. These relationships—including in-person or virtual meetings, regional conferences, and webinar trainings—not only inform FTC’s law enforcement priorities but also allow the agency to alert local communities about scams and respond to local concerns.
➢ **CFPB develops a financial empowerment training toolkit for legal aid staff.** In 2015, CFPB launched Your Money, Your Goals: A financial empowerment toolkit for legal aid organizations, an interactive toolkit designed for legal aid organizations that serve low-income consumers. CFPB teamed up with four legal aid organizations from across the country to deliver workshops to train legal aid staff. In 2016, CFPB is working with additional legal aid organizations to integrate the toolkit into their work. The toolkit includes actionable information and tools for front-line staff to help clients identify financial challenges and goals, understand their consumer financial protection rights, and access relevant resources. Hundreds of legal aid attorneys and staff have participated through the train-the-trainer format via in-person and webinar trainings.

➢ **Treasury enlists legal aid to help low-income and other taxpayers in need with tax returns and tax disputes.** Treasury’s Internal Revenue Service (IRS) administers three grant programs: Low Income Taxpayer Clinic (LITC), Volunteer Income Tax Assistance (VITA), and Tax Counseling for the Elderly (TCE). LITC funding of $12 million in FY 2016 goes to legal aid organizations and law school clinics. These programs increase access to justice by providing representation for little to no cost for low-income individuals who are trying to resolve disputes with IRS. VITA funding of $15 million in FY 2016 goes to many legal aid organizations to provide free tax return help for low-to-moderate income individuals, persons with disabilities, the elderly, and those having limited English proficiency. TCE funding of $6.5 million in FY 2016 goes to many legal aid organizations to provide free tax counseling and return preparation for the elderly. Legal aid providers also help ensure fairness and integrity in the tax system by assisting people harmed by fraudulent tax preparers.

➢ **HHS’s Older Americans Act (OAA) funding supports legal services to senior citizens.** The Administration on Aging within the Administration for Community Living (ACL) administers OAA programs. Under the legal assistance and elder rights programs, there are about 900 OAA-funded legal aid providers nationwide providing nearly 1 million hours of legal assistance per year, such as basic will writing and estate planning as well as protection against elder abuse and financial exploitation. ACL distributed $26.6 million to civil legal aid providers for this work in FY 2014 as part of the Title III-B OAA funding. In July 2016, ACL awarded an additional $1.2 million in Model Approaches to Statewide Legal Assistance Systems demonstration grants to eight states. Grantees will expand and improve the capacity of their legal service delivery networks and improve coordination among senior legal helplines, pro bono attorneys, law school clinics, self-help sites, and OAA-funded legal aid providers, and they will promote the use of helplines and improve data collection systems. In September 2016, ACL announced release of more than $1 million to Justice in Aging to create a new National Center on Law and Elder Rights. The Center will support efforts to protect the rights, financial security and independence of older adults, and develop new resources.
➢ FTC’s educational video on debt collection features legal aid interventions for military families. As part of its education and outreach about special rights servicemembers and their families have on some consumer issues, FTC’s Fraud Affects Every Community: Debt Collection video tells the moving first-person story of a veteran’s debt collection experience spotlighting the legal assistance that helped him recover.

➢ FTC partners with legal aid to develop and disseminate consumer education and to track complaints from certain legal aid offices. FTC recently developed a pilot program to help select legal aid offices file consumer complaints more easily with FTC’s Consumer Sentinel database and to increase dissemination of consumer education materials. New complaints will be automatically tagged as originating from a legal aid program, which will enable the FTC to measure the number and type of consumer complaints coming from these offices. FTC also utilized its legal aid partnership to develop Consumer.gov, which presents easy-to-use information through text, videos, presentations, and worksheets.

➢ Treasury raises awareness about the role for legal aid in financial education through the Financial Literacy and Education Commission (FLEC). On June 29, 2016, the WH-LAIR Executive Director, WH-LAIR representatives from CFPB and FTC, and a legal aid attorney addressed FLEC’s 22 member agencies and other participants about partnering with legal aid to further FLEC’s work of helping people achieve their financial goals and attain greater financial stability in their lives.

Research says:

Third-party debt collectors (acting on behalf of or in the place of the original creditor) bring at least half of all small claims cases in Maine. For a variety of reasons, the debt collectors—represented by counsel—typically prevail. Since launching a credit card debt collection project in May 2012, LSC-funded Pine Tree Legal Assistance legal aid staff and volunteer attorneys:

➢ represented 1,394 low-income consumers and saved clients $4,416,226 that would otherwise have been awarded to third-party debt buyers

➢ won more than 98% of those cases by showing that the debt collectors did not have sufficient evidence to establish the debt under Maine law

Source: Pine Tree Legal Assistance
MEETING THE NEEDS OF SPECIAL POPULATIONS:
VETERANS AND SERVICEMEMBERS, TRIBES AND TRIBAL MEMBERS, PEOPLE WITH DISABILITIES, PEOPLE WITH CRIMINAL RECORDS, IMMIGRANTS, AND DISASTER SURVIVORS

Certain populations face unique or greater barriers to access to justice, and WH-LAIR agencies are responding to their needs by providing targeted services, including legal aid. This section provides additional context for those populations and briefly describes efforts to meet their needs.

VETERANS AND SERVICEMEMBERS

Many of the more than 21 million American veterans and another 1.4 million servicemembers face serious challenges, including unemployment, chronic health problems, and homelessness. On a single night in January 2015, nearly 48,000 veterans experienced homelessness. Veterans face a housing crisis for many reasons, such as poverty, lack of support from family or friends, or substance use disorders or mental health conditions that may have developed or worsened as a result of trauma they experienced while serving. Many of our servicemembers and veterans need access to physical and behavioral health services, critical income supports, and especially job opportunities when they return to civilian life.

VA and other Federal agencies coordinate their resources to assist veterans, servicemembers, and their families in need. A growing number of these programs include legal aid because legal aid is often necessary to meet veterans’ and servicemembers’ essential and otherwise unmet needs. Through representation, counseling, and education, legal aid helps prevent evictions and home foreclosures. For child support issues, legal aid helps negotiate fair child support orders, increasing the reliability of payments. Additionally, legal aid helps veterans navigate outstanding warrants and court fines and fees, and can help restore a revoked or suspended driver’s license, which is often necessary for work. Veterans who need help securing government benefits can receive assistance from legal aid, ensuring that applications are completed correctly and, if a veteran’s benefits are erroneously terminated, help reinstate the benefits by working with the agency or representing the veteran in administrative proceedings.

WH-LAIR helps Federal agencies identify those programs that can be more effective by incorporating legal aid among the services that they offer to veterans and servicemembers and increase collaboration and sharing of best practices, such as exchanges between HHS and VA about their experiences improving health outcomes through medical-legal partnerships.

Steady progress has been made, but there is more work to do to address the many causes of homelessness among Veterans. Providing legal aid to remove obstacles to stable housing, such as helping to address eviction or foreclosure, is a critical part of this effort.

~Robert A. McDonald
Secretary, VA
Examples of WH-LAIR agencies’ efforts in this area include:

➢ DOL funds legal aid through grants from its Veterans’ Employment and Training Service (VETS). The DOL VETS-funded Homeless Veterans’ Reintegration Program grant allows the use of grant funds for legal aid in the areas of family law, domestic violence, child support enforcement, and credit repair counseling, to support eligible homeless female veterans and veterans with families.

➢ VA issues guidance supporting veterans’ access to legal aid at VA medical facilities. VA issued a Directive in 2011 and a Policy Memorandum in 2012 to Office of General Counsel attorneys on advising VA facilities and on how to refer homeless veterans to legal service providers for assistance with matters such as child support or outstanding warrants or fines, and to provide office space to legal service providers, when possible. As of September 2016, there were over 135 free legal clinics operating in VA medical facilities nationwide, including 12 medical-legal partnerships, a more than 300 percent increase since 2012. VA now tracks the growth of these clinics and provides legal and other technical guidance to the local VA staff coordinating these clinics. 50

➢ VA provides training to its program staff and grantees about the legal needs of homeless veterans and partners with HHS to provide legal help to homeless veterans. VA, in collaboration with DOJ and legal aid programs, provided training about the legal needs of veterans and how to incorporate legal services into efforts to help veterans obtain permanent housing. 51 This effort included a webinar series in 2015 to all grantees of the Supportive Services for Veteran Families (SSVF) program on housing-related legal interventions and a training event in 2016 to the Grant per Diem program staff. In addition, VA, HHS’s Office of Child Support Enforcement, and the American Bar Association piloted a nine-site partnership to provide homeless veterans with help addressing child support debt.

➢ DOJ launches the Servicemembers and Veterans Initiative (Initiative) to build a comprehensive legal support network focused on protecting servicemembers, veterans, and military family members. Launched in 2015, the Initiative’s engagement efforts include www.servicemembers.gov, a new website designed to educate servicemembers and legal professionals about the military-specific Federal statutes enforced by DOJ and features a form that serves as an effective means by which servicemembers and veterans may bring legal issues to the attention of DOJ.

➢ VA initiates VA-accredited legal aid attorneys’ electronic access to veteran clients’ claim records. In 2016, VA began actively processing requests from VA-accredited attorneys for electronic access to veteran clients’ claim records. Previously, the electronic access to records was only available to the representatives of VA-recognized Veterans Service Organizations.
VA is actively pursuing improvements to its hearings and appeals process for veterans’ benefits. VA included a proposal in the 2017 President’s Budget for a more streamlined appeals process, setting a goal of most veterans receiving a final appeals decision within one year of filing their appeal. Many veterans receive free assistance with their claims and appeals from VA-recognized Veterans Service Organizations, and VA is exploring options for expanding access to those and other legal aid organizations.

FCC adopted a comprehensive reform and modernization of the Lifeline program. Lifeline provides a discount on phone service for qualifying low-income consumers to ensure they have the ability to connect to jobs, information, and emergency services. In March 2016, FCC modified its rules to grant eligibility for Lifeline to low-income consumers receiving the Veterans Pension benefit or the Survivors Pension benefit. The program will also begin supporting a discount on fixed and mobile broadband internet access service in December 2016. FCC will perform outreach to legal aid organizations to ensure veteran clients are aware of the program.

TRIBES AND TRIBAL MEMBERS

The Federal government’s relationship with, and responsibility to, members of Federally-recognized Indian tribes is long and complex, governed by treaties, court decisions, a multitude of Federal laws, and executive orders. Together, these affect many aspects of life for tribal members, including child custody, estate planning, healthcare, and education.

As a consequence of the historical practice of removing Native American children from their families for placement with non-Native families, Congress enacted the Indian Child Welfare Act (ICWA). Although the law created safeguards to preserve families, it is difficult to navigate without legal assistance. The same is true for the preparation of Indian wills, which is complex because tribal lands are held in trust by the Federal government.

Moreover, many tribes enact their own laws to establish law and order on their lands, adding to the need for lawyers with specialized knowledge of Federal and tribal laws and practices. This specialized legal knowledge has become more important after the passage of the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) and the newly recognized Special Domestic Violence Criminal Jurisdiction and its requirement for more robust tribal defender services.

Legal aid helps preserve Native American families by assisting tribes in developing and implementing social programs and by representing parents in cases that implicate ICWA. Legal aid helps tribal members secure Federal benefits by helping individuals enroll in their tribe and receive health and social services such as Social Security benefits, disability payments, and Indian Health Service benefits. Legal aid also helps protect land rights of Native Americans by helping to prepare wills to protect family property rights and representing tribal members in actions to protect their hunting and fishing rights on tribal land. In addition, legal aid assists tribal members in tribal courts by providing representation to low-income criminal defendants and juveniles in delinquency proceedings.

Research says:

5 of the top 10 unmet needs of homeless veterans involve legal assistance for: eviction/foreclosure prevention, child support issues, outstanding warrants/fines, discharge upgrades, and restoring a driver’s license. Other top 10 unmet needs often have a legal component, including family reconciliation assistance and credit counseling.

Source: U.S. Dep’t of Veterans Affairs, Community Homelessness Assessment, Local Education and Networking Groups Fact Sheet (2016).

Indian communities are plagued by high rates of poverty, and a multitude of unmet legal needs. Legal aid can play a vital role in ensuring safety, stability, and economic security for tribal members.

~Kevin Washburn
former Assistant Secretary
Indian Affairs, DOI
Examples of WH-LAIR agencies’ efforts in this area include:

➢ LSC-funded programs work in Indian Country and in urban areas where Native Americans are concentrated to provide specialized legal aid. These programs provide highly skilled legal services in the complex body of Indian law to address critical needs such as child custody in Indian Child Welfare Act (ICWA) cases and probate matters under the American Indian Probate Reform Act. Some programs also provide defense services in tribal courts.

➢ DOI provides free legal training in tribal courts. DOI’s Bureau of Indian Affairs (BIA) helps fund and support 184 tribal courts and provides free trainings designed to strengthen the trial skills of tribal judges, prosecutors, and defenders. Since the enactment of VAWA 2013 and the newly recognized Special Domestic Violence Criminal Jurisdiction, BIA has supported additional tribal court trainings led by tribes that have begun implementing the law. Since 2016, DOI has provided additional training to tribal court personnel, including legal aid providers, on domestic violence protection orders pursuant to VAWA 2013 and child welfare hearings in Public Law 280 jurisdictions, such as Alaska and California.

➢ CNCS launches medical-legal partnerships (MLPs) in Indian Country. CNCS serves Native American communities through a number of programs including AmeriCorps. In 2015, CNCS awarded an AmeriCorps Indian Tribes Planning Grant to a partnership among the Navajo Nation, the Kenaitze Indian Tribe, the Central Council of Tlingit and Haida, and the Tanana Chiefs Conference, in conjunction with two legal aid programs to develop MLPs in Indian Country. Subsequently in 2016, the partnership was awarded an operational grant.

➢ DOJ’s Tribal Civil and Criminal Legal Assistance program (TCCLA) supports civil and criminal legal aid to Native Americans. Administered by DOJ’s Bureau of Justice Assistance (BJA), TCCLA provides grants to 26 legal aid programs to represent low-income Native Americans in civil matters, such as housing, and criminal cases involving violations of tribal criminal law. TCCLA also supports core training and technical assistance for legal aid staff, peacemaking approaches and curriculum development and training on holistic representation approaches. Also sponsored by BJA, the Tribal Access to Justice Innovation website highlights innovative tribal justice programs from around the country in an effort to provide ideas to reformers looking to address common challenges.

➢ DOJ supports legal aid to address domestic violence among tribal members. Through the Coordinated Tribal Assistance Solicitation, BJA and the Office on Violence Against Women (OVW) provide funding to tribes for legal aid to low-income tribal members to address domestic violence. Additionally, in 2016, OVW launched a new program, Grants to Tribal Governments to Exercise Special Domestic Violence Criminal Jurisdiction Program, to support tribal governments’ exercise of VAWA 2013’s Special Domestic Violence Criminal Jurisdiction. In September 2016, OVW
announced that it is awarding $2.1 million to seven tribes under this program. Through this program, OVW for the first time can fund the provision of criminal defense services for low-income individuals charged with domestic violence and dating violence, as well as violating certain protection orders.

➢ DOI’s Bureau of Indian Affairs (BIA) funds tribal efforts to provide legal aid for their members. Over the years, BIA has provided funding to support legal aid in tribal communities through base funding, one-time funding, and court improvement funding. For example, in 2016 BIA provided continuous base funding for legal aid to the following tribes: Red Lake, Spirit Lake, Pueblo of Pojoaque, Makah, Eastern Band of Cherokee, Ft. Belknap, Pueblo of Isleta, Rosebud Sioux, and Pascua Yaqui.

➢ FCC maintains tribal-specific Lifeline eligibility programs to support adoption of telecommunications services. Low-income consumers living on tribal lands and receiving certain Federally funded benefits are eligible for a $34.25 discount on phone service. Beginning in December 2016, the Lifeline program will also support fixed and mobile broadband internet access services for qualifying tribal households. With this benefit, tribal members can maintain contact with legal counsel and increase their access to online information and resources.

➢ HUD’s Indian Housing Block Grant (IHBG) program funds affordable housing development and related housing services including legal services. The IHBG funds, provided through Indian tribes and tribally designated housing entities, may be used to provide housing-related legal services to low-income residents of affordable housing and persons seeking affordable housing assistance.

PEOPLE WITH DISABILITIES

Many of the over 50 million Americans with disabilities face serious challenges that impact their basic needs. Although the nature and severity of disabilities and associated challenges vary, those with disabilities experience unemployment, poverty, lack of access to health services, discrimination, and difficulty accessing appropriate educational services more often than those without a disability.

The Federal government has long recognized the importance of legal aid in addressing challenges faced by Americans with disabilities. Through the Protection and Advocacy System (P&A) programs, funded by several Federal agencies, many Americans with disabilities receive critical legal assistance. Specifically, the legal aid providers from P&A and other programs help prevent or stop discrimination and enforce rights in employment, government services, public accommodations, housing, and school. Legal aid also helps secure government benefits such as Social Security, Medicaid, and veterans’ benefits, by explaining eligibility requirements, properly documenting applications, helping to waive unjust overpayment demands, and appealing erroneous denials, terminations, and reductions. Additionally, those with disabilities can receive help ensuring that housing and workplaces are accessible.54
WH-LAIR supports Federal agencies’ strategic partnerships with civil legal aid to assist programs that target Americans with disabilities and to aid the enforcement of key Federal and state laws protecting the rights of Americans with disabilities.

**Examples of WH-LAIR agencies’ efforts in this area include:**

- **HHS, ED, and SSA provide legal aid to persons with disabilities through the P&A programs.** P&A programs provide legal representation and other advocacy services to persons with disabilities, including individuals with developmental disabilities, mental illness and other impairments such as visual or hearing impairments. In FY 2015, these programs provided advocacy services to over 45,000 individuals and information and referral services to over 141,000 individuals.

- **HHS, ED, and SSA partner with the National Disability Rights Network (NDRN) to provide technical assistance to P&A programs providing legal aid.** NDRN, a nonprofit membership organization for P&A programs, provides training and technical assistance to those P&A programs through contracts with SSA, ED and HHS.

- **DOJ partners with legal aid and P&A programs in enforcement actions to protect the legal rights of people with disabilities.** Many of the enforcement cases brought by DOJ’s Civil Rights Division begin as referrals from legal aid organizations or P&A programs. In other cases, DOJ has intervened or filed statements of interest to support litigation brought by legal aid providers seeking to increase accessibility and ensure appropriate placements and services for people with disabilities.

- **SSA starts Pre-Hearing Conference Pilot Program for self-represented claimants.** Under this program, senior attorneys in SSA’s Office of Disability Adjudication and Review conduct pre-hearing conferences with self-represented claimants to explain the hearing process and right to a representative and obtain updated records information in preparation for the formal hearing. The goals for the pre-hearing conference are to (1) reduce hearing no-shows and postponements based on a claimant choosing to seek representation, (2) improve the quality and completeness of the record at the time of the hearing, and (3) decrease the need for post-hearing development and improve the hearings experience for self-represented claimants.

- **SSA supports research on disability-related topics, including legal aid.** SSA administers the Disability Determination Process Small Grant Program, and several projects in this program address the role of legal services in assisting claimants with the disability application process. Also, SSA contracted with ACUS to study state adult guardianship laws and court practices concerning the selection, monitoring, and sanctioning of legal guardians. ACUS released its findings in 2015.
PEOPLE WITH CRIMINAL RECORDS

Each year, more than 600,000 individuals are released from state and Federal prisons, and 11.4 million people cycle through local jails. In addition, a broader population - roughly one in three American adults - has an arrest record, many for relatively minor, non-violent offenses, sometimes from decades in the past or as a result of their mental health conditions. The long-term, sometimes lifetime, impact of a criminal record keeps many qualified people from obtaining employment and accessing housing, higher education, loans and credit—even after they have paid their debt to society.

As a number of Federal programs strive to support those with criminal records with the myriad challenges they face, partnership with legal aid is essential. For example, legal aid can secure expungement or sealing of records or even a pardon for eligible people, thereby improving prospects for employment, housing, and education. Legal aid can also correct errors on criminal records, reinstate a revoked or suspended driver’s license, and modify child support orders to realistic payment obligations, helping parents provide for their families.

WH-LAIR collaborates with the Federal Interagency Reentry Council, which coordinates Federal agencies’ efforts around reentry, to ensure that legal aid is among the range of services provided by those Federal programs designed to tackle barriers for individuals with criminal records.

Examples of WH-LAIR agencies’ efforts in this area include:

➢ **DOJ sponsors post-disposition reentry fellowships.** Funded by the Second Chance Act, DOJ’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) awardee National Juvenile Defender Center selected four organizations to host reentry fellows. These fellows provide post-disposition civil legal services to address barriers youth face in community reintegration following a juvenile delinquency placement or commitment. Legal aid may include juvenile record expungement, securing a driver’s license, challenging inappropriate denials of housing or employment, educational advocacy, and other services that help youth successfully reenter the community.

➢ **HUD and DOJ help youth in public housing with collateral consequences associated with a juvenile or criminal record.** With funding from DOJ’s OJJDP, in 2016, HUD provided 21 Juvenile Reentry Assistance Program (JRAP) grants to provide legal aid to eligible public housing residents under the age of 25. JRAP services include assistance with expunging, sealing, or correcting juvenile or adult records as permitted by state law and supportive services to assist with mitigating and/or preventing collateral consequences.
PART II: LEGAL AID ADVANCING FEDERAL PRIORITIES

➢ DOL and DOJ establish the National Clean Slate Clearinghouse. In September 2016, the DOL and DOJ announced a partnership with the Council of State Governments Justice Center to establish the National Clean Slate Clearinghouse to provide technical assistance to local legal aid programs, public defender offices, and reentry service providers to build capacity for legal aid needed to help with record-cleaning, expungement, and related civil legal services.

➢ DOJ and DOL expand legal aid to address collateral consequences for people with criminal records. Several large grant programs – such as the DOJ Second Chance Act grants, DOL Reentry Employment Opportunities grants, and HHS Child Support Noncustodial Parents Employment Demonstration grants – allow for the use of funds to pay for legal assistance to secure driver’s licenses, expunge criminal records, modify child support orders, and litigate inappropriate denials of housing or employment and violations of the Fair Credit Reporting Act for people returning to their communities from a period of incarceration.

Lawyer’s help gets a nurse on the job

“Andy’s” 10-year-old felony conviction prevented him from pursuing his hopes of securing a state license to become a New YorkLicensed Practical Nurse. The Fortune Society, a grantee of DOL’s Reentry Employment Opportunities grant program, referred Andy to MFY Legal Services in New York. His legal aid lawyer helped Andy obtain out-of-state criminal court records, gather proof of rehabilitation, and represented him at the initial investigative interview. The result was a successful license application and a job.

People need quality legal representation in immigration proceedings. Legal aid groups play a valuable role in filling that need. They help people navigate a complicated process and help immigration courts function more effectively and efficiently.

~Juan Osuna
Director
DOJ Executive Office for Immigration Review

IMMIGRANTS

Many individuals who appear before immigration courts are indigent and cannot afford a private attorney. According to DOJ’s Executive Office for Immigration Review (EOIR), over 40 percent of the individuals in immigration proceedings are without legal representation at the time of their initial case completions. In addition to the complexity of immigration law, many unrepresented litigants lack English language proficiency or any knowledge of the American legal system. A recent study of over 1.2 million immigration cases from between 2007 and 2012 demonstrates that immigrants with legal representation are more likely to apply for immigration relief and are more likely to obtain the relief they sought.

Unfamiliarity with the American legal system makes immigrants especially vulnerable to the unauthorized practice of immigration law, also known as notario fraud — a form of consumer fraud that involves individuals who misrepresent themselves as qualified to provide immigration legal services. Victims of notario fraud can suffer significant consequences, including delay of their applications or petitions, paying unnecessary and costly fees, and even the risk of jeopardizing their immigration status and removal.
Civil legal aid lawyers provide legal representation or advice to those who cannot afford a private attorney in immigration proceedings, including the most vulnerable immigrant populations such as unaccompanied children and those with serious mental disorders or conditions. These lawyers help people navigate the immigration system and access appropriate social services and assist lawful permanent residents with the naturalization application and interview processes. In addition, legal aid protects immigrants from notario fraud by providing them with information and resources to better understand immigration proceedings and by assisting them with correcting their filings. Immigrants who are victims of crime can also receive help from legal aid to apply for U or T nonimmigrant status, which is available to eligible victims of crimes such as domestic violence and human trafficking.

Recognizing the vulnerability of many immigrants and the need for legal help, WH-LAIR agencies provide various resources, including legal aid.

Examples of WH-LAIR agencies’ efforts in this area include:

➢ FTC, DOJ, and DHS form a multi-agency, nationwide initiative to combat immigration services scams. This initiative, launched in 2011, targets immigration scams involving the unauthorized practice of immigration law and focuses on enforcement, education and continued collaboration. As part of the initiative, FTC collects complaints in order to detect patterns of wrongdoing. The initiative implemented programs designed to help those in immigration proceedings, including DOJ EOIR’s “Know Your Rights” trainings at detention centers and DHS’s “The Wrong Help Can Hurt” campaign aimed at preventing notario fraud.

➢ CNCS and DOJ launch justice AmeriCorps to increase legal aid to unrepresented immigrant children who have crossed the U.S. border without a parent or legal guardian. The justice AmeriCorps program, launched in 2014, enrolled approximately 70 lawyers and paralegals in each of the past two years as AmeriCorps members to provide legal aid to the most vulnerable of these children, responding to Congress’ direction to better serve vulnerable populations, such as children, and improve court efficiency through pilot efforts aimed at improving legal representation. justice AmeriCorps provides direct representation through a grant model to certain unaccompanied minors in immigration removal proceedings at 20 immigration courts across the country. Through August 2016, justice AmeriCorps members have accepted over 2,300 cases.

➢ DHS awards grants to legal aid programs, among others, to help with citizenship preparation for lawful permanent residents. As part of a multifaceted effort to provide citizenship preparation resources, support, and information to lawful permanent residents and immigrant-serving organizations, DHS’s U.S. Citizenship and Immigration Services (USCIS) runs the Citizenship and Integration Grant Program, which has provided funding since 2009 to make citizenship instruction and naturalization application services accessible to the low-income and other underserved lawful permanent resident populations. The grant program has awarded 308 competitive grants to numerous organizations in 37 states.

justice AmeriCorps lawyer gets asylum for young crime victim

When 14-year-old “Paulo” was shot and severely beaten by a gang member in his native El Salvador, he knew he had to leave his grandparents’ home where he had lived much of his life. Paulo vigorously denied the gang’s claim that his family belonged to a rival gang, an accusation equivalent to a death sentence in his community. Arriving in the United States alone, a Catholic Charities of Rockville Center justice AmeriCorps Fellow took Paulo’s case and successfully represented him in removal proceedings before the New York Immigration Court. Granted asylum, Paulo was reunited with his parents. The justice AmeriCorps partnership with Catholic Charities enabled Paulo to also get a Social Security card and mental health counseling to address his trauma, helping him settle into his new life as an eighth grader with a key position on his church’s soccer team.

(Photo: Equal Justice Works)
➢ DOJ supports initiatives to ensure the fairness and accessibility of administrative justice for those without legal representation. EOIR, through its Legal Orientation Program (LOP), provides in-person orientations, self-help assistance, and pro bono referrals to individuals detained by the U.S. Immigration and Customs Enforcement (ICE). Using contracted non-profit legal service providers, LOP currently operates in 36 of the largest or most actively utilized ICE detention facilities and has two smaller programs servicing non-detained individuals. EOIR also provides similar services to custodians of unaccompanied minor children released from the custody of HHS’s Administration for Children and Families, Office of Refugee Resettlement’s Unaccompanied Children Program. EOIR also recently launched the Immigration Court Helpdesk Program (ICH) which funds information helpdesks at five immigration courts with some of the greatest pending caseloads and longest backlogs.

➢ DOJ launches innovative pilot programs that provide representation to certain vulnerable populations. The National Qualified Representative Program, overseen by EOIR since 2014, provides representation to unrepresented individuals detained by ICE and found by an immigration judge to be mentally incompetent to represent themselves in immigration proceedings. EOIR also funds the Baltimore Representation Initiative for Unaccompanied Children (BRIUC) to provide direct representation in immigration proceedings to certain unaccompanied children appearing before the Baltimore Immigration Court. In addition, in 2015 EOIR established the Remote Access Initiative (RAI), which funds legal representation for certain unaccompanied children in immigration removal proceedings before the Memphis Immigration Court who would not otherwise be represented by counsel due to their geographic distance from the court and legal services.

➢ HHS facilitates legal aid for unaccompanied immigrant children. HHS’s Administration for Children and Families, Office for Refugee Resettlement (ORR), through its legal service providers, conducts legal screenings for unaccompanied immigrant children to determine their potential eligibility for immigration relief. ORR also supports pro bono legal representation and funds legal representation for certain unaccompanied children. In addition, ORR provides “Know Your Rights” presentations, information regarding the availability of free legal assistance and notices to unaccompanied children of their eligibility to apply for Special Immigrant Juvenile Status.

➢ DHS establishes legal access coordinator and subject matter expert positions to enhance legal aid to detained immigrants. Beginning in 2016, these new positions in ICE help improve and implement legal access protocols, engage stakeholders at the national and local levels, and coordinate with interagency partners and nongovernmental organizations, as appropriate, to enhance “know-your-rights” presentations and EOIR-funded legal orientation programs to detained immigrants.
ED creates a website of educational resources for immigrants, refugees, asylees, and other new Americans. The website contains resources that support a number of immigrant populations, including immigrant children (e.g., unaccompanied youth) and the children of immigrants, Deferred Action for Childhood Arrivals children and youth, immigrant families, adult immigrants (e.g., refugees, asylees), migrant students, teachers of English learners and foreign languages, and receiving communities. The website includes information on legal rights and is geared toward students, teachers, schools and communities to support civic, economic, and linguistic integration.

DOJ works to ensure comprehensive language assistance services in state courts for limited English proficiency (LEP) individuals. DOJ’s Civil Rights Division has worked with state courts to improve their programs, including through collaborative cooperation, investigations, and enforcement efforts, so that LEP individuals have greater access to the court system.

DISASTER SURVIVORS

Disasters can hit anywhere and at any time. They can be caused by natural hazards, such as tornados, hurricanes, volcanic eruptions, and floods, or be human-induced, such as environmental disasters or terrorism. When disaster strikes, women, children and people with disabilities are especially vulnerable to death, job loss, and housing insecurity, but much can be done to mitigate the impacts of disasters.

Legal aid providers help protect lives and livelihoods, addressing matters critical to alleviating the devastating effects of a disaster. Almost immediately after a disaster, survivors typically need advice and counsel regarding evictions, price-gouging, eligibility for disaster-related benefits such as Individual Disaster Assistance, Disaster SNAP, Disaster Unemployment Assistance, and Federal Housing Administration (FHA) insurance issues, and help replacing legal identification papers. Later, many will need help with insurance claims regarding loss of property and loss of life, bankruptcy, foreclosures, heir property and title concerns, preparing new wills and other legal papers that were destroyed, tax issues, combating consumer fraud, and family law matters such as child custody and guardianship issues.

Understanding the role of legal aid in meeting the short- and long-term needs of disaster survivors, WH-LAIR agencies have taken various steps to include legal aid in the services they provide to this vulnerable population.

Examples of WH-LAIR agencies’ efforts in this area include:

DHS’s Federal Emergency Management Administration (FEMA) partners with the American Bar Association to provide legal aid to disaster survivors. When the President declares a disaster, FEMA, through an
agreement with the Young Lawyers Division of the American Bar Association, mobilizes local legal aid and pro bono volunteers to provide free legal help for disaster survivors through the request of the state, local, tribal, or territorial government. This program, Disaster Legal Services, provides legal assistance to low-income individuals who, prior to or because of the disaster, are unable to secure legal aid to meet their disaster-related needs. This program expands the scope of available legal services for disaster survivors by providing assistance to a broader audience than that typically provided by legal aid because of its more flexible low-income standard and lack of immigration status restrictions.

➢ DHS’s FEMA issues a guide on disaster recovery and identified legal services as an unmet need to be addressed. FEMA’s National Disaster Recovery Framework, a guide on how the whole community builds, sustains, and coordinates delivery of recovery capabilities to meet the needs of affected community members who have experienced the hardships of financial, emotional, and/or physical impacts of devastating disasters, notes that typical areas of unmet need include legal services and that legal services should be included in a successful recovery plan.

➢ LSC provides funding to build the National Disaster Legal Aid website. In 2012, LSC provided a Technology Initiative Grant to Lone Star Legal Aid to rebuild and enhance the National Disaster Legal Aid website, which now serves as a centralized national resource for legal aid and pro bono attorneys on legal issues related to all types of disasters, as well as a platform to recruit and mobilize volunteer attorneys following a disaster. The website also provides timely legal information to help low- and moderate-income people with their disaster-related legal issues.

➢ HUD, DOJ, DHS, HHS, and DOT issue joint guidance about protecting civil rights of those affected by disasters and urge partnership with legal aid. In 2016, five agencies jointly issued guidance to assist recipients of Federal funding engaged in emergency management to ensure that individuals and communities affected by disasters do not face unlawful discrimination on the basis of race, color, or national origin (including limited English proficiency) in violation of Title VI of the Civil Rights Act of 1964. Noting that legal aid organizations are trusted intermediaries that can engage with underserved communities, the guidance urges recipients to consider working with legal aid organizations before, during, and after an emergency or disaster.

➢ LSC helps Hurricane Sandy survivors with legal needs. The Disaster Relief Appropriations Act of 2013 included $1 million for LSC to provide assistance to low-income people in areas significantly affected by Hurricane Sandy. The grants—which were supplemented by more than $1 million from private foundations—funded legal aid needed for low-income families, seniors, veterans, and others to recover and rebuild their lives following the disaster.
PART III: LOOKING AHEAD

Accelerating WH-LAIR Activities and Amplifying Their Impact

"Civil legal aid can transform lives for the better, and WH-LAIR is committed to helping provide these critical services, building on the efforts of the last four years to meet the challenges ahead."

~Principal Deputy Associate Attorney General Bill Baer
Designated WH-LAIR Co-Chair

Much has been accomplished, but so much more can be done to improve the performance of Federal programs by ensuring meaningful access to justice for all in America. WH-LAIR agencies have demonstrated that civil legal aid is an essential but often underfunded and underutilized partner, and they intend, where appropriate, to add legal aid into the mix of policy responses to the problems they seek to solve. During the year since the Presidential Memorandum was signed, WH-LAIR agencies have both taken stock of the progress they have made to date and begun to plan the activities that will accelerate and amplify their efforts going forward.

➢ Leveraging resources to strengthen Federal programs by integrating legal aid. WH-LAIR agencies will continue to leverage Federal funding and training and technical assistance (TTA) opportunities to include legal aid. Notable examples include: DOL is reviewing all of its funding competitions to determine whether legal aid should be included among the services provided; DOJ will continue providing TTA to encourage its grantees to fund more comprehensive legal assistance for crime victims; CFPB will provide TTA to select legal aid programs to expand the reach of its financial empowerment toolkit, *Your Money, Your Goals*; and DOJ’s FY 2017 budget request includes $5 million for a competitive grant program for states to create integrated civil legal aid delivery systems to better meet the legal needs of low- and moderate-income people and reduce the caseload burden on courts.

➢ Developing and implementing policy recommendations that improve access to justice. WH-LAIR agencies plan to develop a broader range of policies that further the goals of WH-LAIR and work towards effective implementation of their new policies. For example, HHS’s Children’s Bureau at the Administration for Children and Families is developing guidance to emphasize and promote the importance of high quality legal representation for all parties in all stages of child welfare proceedings; HHS’s Office of Child Support Enforcement has proposed a rule that would support services to improve access to court hearings and other adjudicative processes for people without lawyers; and DOL will implement its recently published WIOA final rules and provide jobseekers with the supportive services they need—including legal aid—to secure employment.
The dozen agencies in the Working Group on Self-Represented Parties in Administrative Hearings continue to explore promising practices for hearing procedures to ensure the fairness and accuracy of administrative decisions that affect vital public benefits. As co-chair, ACUS plans to finalize its draft report and recommendations based on its review of available data and research for agencies that conduct administrative hearings in late 2016.

➢ **Facilitating strategic partnerships to achieve enforcement and outreach objectives.** Learning from the enforcement and outreach successes of FTC’s Legal Services Collaboration, which created a robust and institutionalized partnership with legal aid, many WH-LAIR agencies with enforcement mandates will work with legal aid to increase their enforcement capacity and amplify outreach efforts. For example, DOJ’s Civil Rights Division plans meetings with legal aid providers around the country to build on their existing collaboration and information exchange and further institutionalize these relationships; FCC will perform outreach to legal aid to broaden the use of communication tools for people with disabilities such as Telecommunications Relay Service for deaf, hard of hearing, deaf-blind, or those with a speech disability and other provisions under FCC’s iCanConnect program; EEOC and DOL are working to strengthen their respective collaborative partnerships with civil legal aid providers who can inform the agency of relevant issues to enhance their enforcement and outreach activities; and DOL is formalizing their collaborative processes, including having a specific designee in each region.

➢ **Advancing evidence-based research, data collection, and analysis.** Building on the insights gleaned from the Civil Legal Aid Research Workshop hosted by DOJ with the support of NSF, WH-LAIR agencies are developing metrics for evaluating whether and how legal aid improves agency programs. Examples include: VA plans to develop a robust data collection strategy to scale up its efforts to identify and address veterans’ unmet legal needs; HHS’s Administration for Community Living intends to start capturing information about elder abuse and legal assistance; and LSC is undertaking a new national legal needs survey to update the Justice Gap studies of 2005 and 2009. An increasing number of agencies’ program evaluations are considering the impact of legal aid on program effectiveness. For example, DOL will soon complete an evaluation of its Face Forward grant for court-involved youth including the legal aid component, and DOI plans to similarly review the role of legal aid in its programs in tribal communities. In addition, the WH-LAIR Working Group on Access to Justice Indicators and Data Collection will release an overview of its activities soon. Finally, the FY 2017 budget request for DOJ’s National Institute for Justice includes $2.7 million for a Civil Legal Aid Research Institute, which would address the need for additional academic research regarding civil legal aid and help supplement the evidence base on the impact of legal aid in communities.

"WH-LAIR’s big idea is simple: Together we can create more opportunities to grab the next rung on the ladder out of poverty by partnering with legal aid to meet Federal—and global—objectives."

~Karen Lash
Executive Director, WH-LAIR
Conclusion

The President signed the Presidential Memorandum formally establishing the White House Legal Aid Interagency Roundtable on the eve of the United Nation’s adoption of the 2030 Agenda for Sustainable Development, and with good reason. The 2030 Agenda recognizes on a global scale what WH-LAIR agencies are already doing, as reflected in this Report. We cannot end poverty without access to justice; we cannot protect the most vulnerable among us without access to justice; and we cannot build transparent and accountable government without access to justice.

This Report documents the power of legal aid to help Federal programs, policies, and initiatives that aim to improve the lives of low-income people and underserved populations. WH-LAIR’s 22 agencies recognize that improved collaboration with legal aid will bring us all closer to our shared goal of improving the lives of all Americans.

In this next phase of WH-LAIR’s work, member agencies will continue to embrace this powerful tool and look for opportunities to incorporate legal aid into Federal programs that increase meaningful access to justice for all, help millions of people meet their basic needs, and raise the quality of life for all in America.

"The White House Legal Aid Interagency Roundtable has become indispensable in helping the Federal government establish partnerships with legal aid providers that push Federal programming forward and ensure that essential services reach the communities that need them most."

~Cecilia Muñoz
White House Domestic Policy Council Director
WH-LAIR Co-Chair
MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Establishment of the White House Legal Aid Interagency Roundtable

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to increase the availability of meaningful access to justice for individuals and families and thereby improve the outcomes of an array of Federal programs, it is hereby ordered as follows:

Section 1. Policy. This Nation was founded in part on the promise of justice for all. Equal access to justice helps individuals and families receive health services, housing, education, and employment; enhances family stability and public safety; and secures the public’s faith in the American justice system. Equal access to justice also advances the missions of an array of Federal programs, particularly those designed to lift Americans out of poverty or to keep them securely in the middle class. But gaps in the availability of legal aid—including legal representation, advice, community education, and self-help and technology tools—for America’s poor and middle class threaten to undermine the promise of justice for all and constitute a crisis worthy of action by the Federal Government.

The majority of Americans who come to court do so without legal aid. They may be left by their economic circumstances to face life-altering events—such as losing a home or custody of children, or escaping domestic violence or elder abuse—on their own. More than 50 million Americans qualify for federally funded civil legal aid, but over half of those who seek assistance are turned away from legal aid organizations, which lack the funds and staff to meet the demand.

When people come into contact with or leave the criminal justice system, they are likely to face a range of legal issues. A victim of abuse may need a protective order, or a formerly incarcerated individual may need a driver’s license reinstated in order to get a job. Access to legal aid can help put...
people on a path to self-sufficiency, lead to better outcomes in the civil and criminal justice systems, and enhance the safety and strength of our communities. Increased legal resources in a community can also help courts process cases more effectively and more efficiently, saving time and money.

Federal programs that are designed to help the most vulnerable and underserved among us may more readily achieve their goals if they include legal aid among the range of services they provide.

By encouraging Federal departments and agencies to collaborate, share best practices, and consider the impact of legal services on the success of their programs, the Federal Government can enhance access to justice in our communities.

Sec. 2. Establishment. There is established the White House Legal Aid Interagency Roundtable (LAIR).

Sec. 3. Membership. (a) The Attorney General and the Director of the Domestic Policy Council, or their designees, shall serve as the Co-Chairs of LAIR, which shall also include a representative from each of the following executive departments, agencies, and offices:

(i) the Department of State;
(ii) the Department of the Treasury;
(iii) the Department of Justice;
(iv) the Department of the Interior;
(v) the Department of Agriculture;
(vi) the Department of Labor;
(vii) the Department of Health and Human Services;
(viii) the Department of Housing and Urban Development;
(ix) the Department of Education;
(x) the Department of Veterans Affairs;
(xi) the Department of Homeland Security;
(xii) the Equal Employment Opportunity Commission;
(xiii) the Corporation for National and Community Service;
(xiv) the Office of Management and Budget;
(xv) the United States Agency for International Development;
(xvi) the Administrative Conference of the United States;
(xvii) the National Science Foundation; and
(xviii) such other executive departments, agencies, and offices as the Co-Chairs may, from time to time, designate.

(b) The Co-Chairs shall invite the participation of the Consumer Financial Protection Bureau, Federal Trade Commission, Legal Services Corporation, and Social Security Administration, to the extent consistent with their respective statutory authorities and legal obligations.
Sec. 4. Mission and Function. (a) The LAIR shall work across executive departments, agencies, and offices to:

(i) improve coordination among Federal programs that help the vulnerable and underserved, so that those programs are more efficient and produce better outcomes by including, where appropriate, legal services among the range of supportive services provided;

(ii) increase the availability of meaningful access to justice for individuals and families, regardless of wealth or status;

(iii) develop policy recommendations that improve access to justice in Federal, State, local, tribal, and international jurisdictions;

(iv) assist the United States with implementation of Goal 16 of the United Nation’s 2030 Agenda for Sustainable Development; and

(v) advance relevant evidence-based research, data collection, and analysis of civil legal aid and indigent defense, and promulgate best practices to support the activities detailed in section 4(a)(i)-(iv).

(b) The LAIR shall report annually to the President on its success in achieving its mission, consistent with the United Nation’s 2030 Agenda for Sustainable Development. The report shall include data from participating members on the deployment of Federal resources that foster LAIR’s mission.

Sec. 5. Administration. (a) The LAIR shall hold meetings at least three times a year and engage with Federal, State, local, tribal, and international officials, technical advisors, and nongovernmental organizations, among others, as necessary to carry out its mission.

(b) The Director of the Office for Access to Justice in the Department of Justice, or his or her designee, shall serve as Executive Director of LAIR and shall, as directed by the Co-Chairs, convene regular meetings of LAIR and supervise its work. The Office for Access to Justice staff shall serve as the staff of LAIR.

(c) The Department of Justice shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative services, funds, facilities, staff, equipment, and other support services as may be necessary for LAIR to carry out its mission.
(d) The LAIR members are encouraged to provide support, including by detailing personnel, to LAIR.

(e) Members of LAIR shall serve without any additional compensation for their work.

Sec. 6. General Provisions. (a) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

# # #
Appendix B - WH-LAIR’s Engagement with Civil Society

WH-LAIR has engaged with civil society—non-governmental organizations and institutions—since its start in 2012. Through consultations, workshops, and presentations involving civil society, WH-LAIR has exemplified open and accountable government practices and upheld the U.S. Government’s commitment to the Open Government Partnership on access to justice.

Consultations and workshops with civil society have informed the work of WH-LAIR and its agencies. These events include:

- **April 2014 Civil Society Consultation on Access to Justice for the United States’ Second Universal Periodic Review and hearing before the UN Committee on the Elimination of Racial Discrimination** organized and hosted by American University’s Washington College of Law’s Center for Human Rights and Humanitarian Law with participation of dozens of organizations.
- **May 2015 WH-LAIR Civil Legal Aid Research Workshop** with participation of 45 non-Federal experts.
- **September 2016 Civil Society Consultation on Access to Justice Indicators and Data Collection** organized by Columbia University School of Law’s Human Rights Institute and Fordham Law School’s National Center for Access to Justice and hosted by Open Society Foundations with participation of dozens of organizations.

Since 2012, WH-LAIR representatives have presented on their activities at a number of civil society-sponsored conferences, events, and webinars. Such engagement has helped WH-LAIR operate openly and transparently. These events have been sponsored by organizations including:

- Access to Justice State Commissions in California, Connecticut, the District of Columbia, and Mississippi.
- American Bar Association.
- American University Washington College of Law’s Center for Human Rights and Humanitarian Law.
- Avocats sans Frontières.
- Columbia Law School’s Human Rights Institute.
- Equal Justice Works.
- Fordham Law School’s National Center for Access to Justice.
- Hague Institute for the Internationalisation of Law - HiiL.
- International Legal Foundation.
- Management Information Exchange.
- National Center for Medical-Legal Partnership.
- National Health Law Program.
- National Legal Aid and Defender Association (NLADA).
- NLADA’s Community Oriented Defender Network.
- NLADA’s Litigation and Advocacy Directors.
- Open Society Foundations.
- Open Society Justice Initiative.
- New York University’s Institute of Judicial Administration and Center on Civil Justice.
- New York University’s Center on International Cooperation.
- Pro Bono Net.
- Self-Represented Litigation Network.
- Voices for Civil Justice.
Appendix C - WH-LAIR Contributors

From its inception in 2012 to the issuance of the Presidential Memorandum in 2015 to now, every aspect of WH-LAIR has been a product of collaboration, both in ideas and resources, and a shared vision by many committed individuals in diverse Federal agencies and offices. This appendix lists current and former Federal employees who have led and supported WH-LAIR.

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White House Legal Aid Interagency Roundtable
Expanding Access to Justice, Strengthening Federal Programs:
First Annual Report of the White House Legal Aid Interagency Round

In addition, the following current and former White House staff have led and supported the activities of WH-LAIR: Roy Austin, Caroline Bettingter-Lopez, Myesha Braden, Carmen Facciolo, Lisa Kohn, Natalia Merluzzi, Tonya Robinson, and Kip Wainscott. WH-LAIR is staffed by DOJ’s Office for Access to Justice with the following current and former staff: Bob Bullock, Mark Childress, Melanca Clark, Silvia Domínguez-Reese, Lisa Foster, Helam Gebremariam, Maha Jweied, Jenni Katzman, Karen Lash, Deborah Leff, Stephan Matthews, Daniel Olmos, Paul Killebrew, Andrew Stanner, Anne Traum, and Allie Yang-Green.
Endnotes

1 The Legal Services Corporation is a Federally-funded, independent nonprofit organization and is a member of WH-LAIR. For purposes of this Report LSC is included in references to “Federal agencies” or “WH-LAIR agencies.”

2 According to the American Bar Association, Interest on Lawyers’ Trust Accounts (IOLTA) is a method of raising money for charitable purposes, primarily the provision of civil legal services to indigent persons. The establishment of IOLTA in the United States followed changes to federal banking laws passed by Congress in 1980, which allowed some checking accounts to bear interest. IOLTA programs currently operate in 50 states, the District of Columbia, and the U.S. Virgin Islands. For more information, see Overview, Am. B. Ass’n, http://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview.html (last visited Oct. 13, 2016).

3 Martin Frankel, Carroll Seron, Gregg Van Ryzin & Jean Frankel, The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City’s Housing Court: Results of a Randomized Experiment, 35 Law & Soc’y Rev. 419 (2001).


14 The Presidential Memorandum identified 21 executive departments, agencies, and offices, to participate in WH-LAIR and gave the Co-Chairs authority to designate additional Federal partners. In the summer of 2016, the Federal Communications Commission joined WH-LAIR.

15 TTA comes in many forms, depending on the type of program and the corresponding need. It can focus on strengthening program implementation and improving service delivery by sharing effective programs and practices, promoting collaboration among grantees and key stakeholders, disseminating the latest research and information on trends and innovative techniques, and improving practices in data collection, evaluation and analysis. TTA may be delivered by the Federal program staff or an external organization under a TTA contract, through various means such as workshops, convenings, individualized consulting, and online resources. TTA can be mandated by statute or designed by agencies to meet specific needs of a state or local community.

16 The working group members include ACUS, DOI BIA, DOJ EOIR, DOL, EEOC, HHS, HUD, Treasury IRS, NSF, SSA, USDA, and VA.

17 The draft report for ACUS’s project can be found at: https://www.acus.gov/sites/default/files/documents/Self-Represented-Parties-Administrative-Hearings-Draft-Report.pdf. When available, the final report will be uploaded to ACUS’s website, and can be found on the project page: https://www.acus.gov/research-projects/self-represented-parties-administrative-hearings.

18 Additionally, in March 2016, NSF, in partnership with DOJ’s ATJ, issued a solicitation, “US Ignite: Networking Research and Application Prototypes Leading to Smart & Connected Communities,” which specifically encouraged applications that could demonstrate a networking technology advancement that improves access to justice, and informs a research agenda and/or identifies technology priorities for civil legal aid. For more information, see NATIONAL SCIENCE FOUNDATION, U.S. IGNITE: NETWORKING RESEARCH AND APPLICATION PROTOTYPES LEADING TO SMART & CONNECTED COMMUNITIES (2016) https://www.nsf.gov/pubs/2016/nsf16553/nsf16553.htm (last visited Sept. 27, 2016).

19 UN’s 2030 Agenda for Sustainable Development, ¶ 75 reads: “The Goals and targets will be followed-up and reviewed using a set of global indicators. These will be complemented by indicators at the regional and national levels which will be developed by member states, in addition to the outcomes of work undertaken for the development of the baselines for those targets where national and global baseline data does not yet exist.” G.A. Res. 70/1, ¶ 75 Transforming our World: The 2030 Agenda for Sustainable Development (Oct. 21, 2015).

20 Civil society is the “third sector” of society, along with government and business. It comprises a wide array of non-governmental organizations and institutions including community organizations, non-profit organizations, and academics.


22 For more information about medical-legal partnerships, see NATIONAL CENTER FOR MEDICAL-LEGAL PARTNERSHIP, http://medical-legalpartnership.org (last visited Sept. 27, 2016).


25 Id.


28 In 2015, legal service providers were grantees or sub-grantees in 120 out of the total of 380 SSVF grants, making up 34% of the SSVF’s total grants. All SSVF grantees are required to at least provide a link to legal services via referral. In addition, in 2015, the SSVF Program added specific guidance in its Program Handbook on how potential grantees may incorporate legal services into their grant applications.


31 Id.


40 Eligible legal aid includes proceedings for protective/restraining orders or campus administrative protection/stay-away orders; family, custody, contract, housing, and dependency matters, particularly for victims of intimate partner violence, child abuse, sexual assault, elder abuse, and human trafficking; immigration assistance for victims of human trafficking, sexual assault, and domestic violence; intervention with creditors, law enforcement (e.g., to obtain police reports), and other entities on behalf of victims of identity theft and financial fraud; intervention with administrative agencies, schools/colleges, tribal entities, and other circumstances where legal advice or intervention would assist in addressing the consequences of a person’s victimization.


VA surveys veterans to identify needs of homeless veterans including their legal needs. Each year, VA's Project CHALENG (Community Homelessness Assessment, Local Education and Networking Groups) surveys local veterans, VA staff and community participants on homeless veterans' needs. The survey includes specific questions about different kinds of legal needs of homeless veterans. The most recent CHALENG report for FY 2015 finds that five of the top ten unmet needs involved legal assistance: eviction/foreclosure prevention, child support issues, outstanding warrants/fines, discharge upgrades, and restoring a driver's license. Several of the other top ten unmet needs also have legal components, including family reconciliation assistance, credit counseling, and government benefits. See U.S. Dep’t of Veterans Affairs, Community Homelessness Assessment, Local Education and Networking Groups Fact Sheet (2016), [http://www.va.gov/HOMELESS/docs/CHALENG-2015-factsheet-FINAL-0616.pdf](http://www.va.gov/HOMELESS/docs/CHALENG-2015-factsheet-FINAL-0616.pdf).


Public Law 83-280 (commonly referred to as “Public Law 280” or “PL-280”) altered the usual allocation of criminal jurisdiction in Indian country and authorized the states of Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin to prosecute most crimes that occurred in Indian country. For more information, see [https://www.justice.gov/usao-mn/Public-Law%2083-280](https://www.justice.gov/usao-mn/Public-Law%2083-280).


62 In this Report, the phrase “unaccompanied child” or “unaccompanied immigrant child” carries the same meaning as “unaccompanied alien child (UAC),” which is defined as follows: UAC is one who has no lawful immigration status in the United States; has not attained 18 years of age, and with respect to whom; 1) there is no parent or legal guardian in the United States; or 2) no parent of legal guardian in the United States is available to provide care and physical custody. See About Unaccompanied Children’s Services, U.S. Dept. of Health & Human Servs., http://www.acf.hhs.gov/orr/programs/ucs/about (last visited Sept. 27, 2016).

63 For more information on LEP resources including state courts-related LEP resources, see https://www.lep.gov/resources/resources.html.

64 Under iCanConnect, officially known as The National Deaf-Blind Equipment Distribution Program, individuals who are deaf-blind and meet certain income guidelines can receive free equipment designed to make telecommunications, Internet access, and advanced communications services more accessible. For more information about iCanConnect, see https://www.fcc.gov/general/national-deaf-blind-equpiment-distribution-program.
The Family Justice Initiative
A Visionary Approach to Improving Outcomes for Families in the Child Welfare System

Working in collaboration with a diverse team of partner organizations throughout the country, the ABA Center on Children and the Law, the Children’s Law Center of California, and the Center for Family Representation in New York, launched the Family Justice Initiative (FJI) with one unified goal: to ensure every child and every parent has high-quality legal representation when child welfare courts make life-changing decisions about their families.

Background:

In the United States, every day approximately 740 children are removed from their families with the goal of keeping them safe. A system of federal and state laws exists to support reunification between children and parents. However, the tragic result is that many families do not reach that outcome. Over 400,000 children are in foster care at any time and more than half never return to their parents.

Rather than finding safety and stability, many children suffer significant trauma when they are removed from their parents and placed in the care of others. They often are cut off from existing support networks, separated from siblings, battle emotional and mental health problems, fall behind in school and run away. Experiences in foster care can also serve as a pipeline to incarceration, homelessness, sex trafficking and long-term institutionalization.

Despite the rights at stake in child welfare cases, many children and parents lack any, or adequate, legal representation. Children typically do not appear in their own court hearings and those who have a lawyer (half do not) may never meet or talk with her. As a result, youth express feeling isolated by the very legal system designed to support them. Similarly, parents feel terrified and disregarded in a legal process that separates them from their children and can permanently sever their parental rights, sometimes in hearings as short as ten minutes.

Families deserve better and we know we can do better. Research shows high-quality legal representation for children and parents helps families achieve positive long-term outcomes, including higher reunification rates. In addition, high-quality legal representation provides a necessary check on well-intentioned, but often overreaching, government intrusion into families’ lives.
Changing the status quo:

The existing system often pits children and parents against one another as unnecessary adversaries. Since its inception in 2016, the FJI has worked to change this status quo by unifying a national collaborative of children’s attorneys, parents’ attorneys, educators, researchers, and national policy advocates who share a goal of expanding access to high quality legal representation for all children and all parents in child welfare cases.

FJI’s three main goals are:

I. To replicate successful models of child and parent representation, including examples where attorneys have reasonable caseloads, are trained to work with clients who have suffered trauma, and work as part of an interdisciplinary team with social workers and peer advocates.

II. To evaluate models of representation in practice and expand the body of existing evidence on legal representation and its impact on child and family outcomes.

III. To build understanding and public support for the essential role high-quality legal representation has in ensuring all families are treated fairly under the law.

Since its launch in 2016, the FJI has:

- Built a national collaborative with representatives from twenty-three states who advocate for children and parents’ right to counsel in child welfare proceedings.
- Developed consensus around replicable FJI models of high quality legal representation for children and parents among a diverse range of child welfare and legal stakeholders.
- Collected existing research on the impact of legal representation on child welfare outcomes.
- Identified jurisdictions throughout the country seeking to make and evaluate needed reforms in child and parent representation where the FJI models can be implemented in practice.
- Begun to design a communication campaign targeting key audiences within and outside the child welfare field to build public support for the essential role of high quality legal representation in ensuring families are treated fairly under the law.
- Contributed to an Information Memorandum issued by the U.S. Department of Health and Human Services, Children’s Bureau that emphasizes the importance of representation for all parties in child welfare proceedings.

More work is needed:

Building on these initial successes, much work remains. The FJI seeks additional resources to support model representation projects in individual jurisdictions, launch a national communications strategy, and fill gaps in research on the impact of legal representation in child welfare cases.
To learn more about how to support or join this initiative please contact the FJI Executive Team:

- Prudence Beidler Carr, ABA Center on Children and the Law, prudence.beidlercarr@americanbar.org
- Mimi Laver, ABA Center on Children and the Law, mimi.laver@americanbar.org
- Leslie Starr Heimov, Children’s Law Center of California, heimovl@clcla.org
- Sue Jacobs, Center for Family Representation, sjacobs@cfrny.org

Elizabeth Thornton, FJI
Maisha Joefield thought she was getting by pretty well as a young single mother in Brooklyn, splurging on her daughter, Deja, even though money was tight. When Deja was a baby, she bought her Luvs instead of generic diapers when she could. When her daughter got a little older, Ms. Joefield outfitted the bedroom in their apartment with a princess bed for Deja, while she slept on a pullout couch.

She had family around, too. Though she had broken up with Deja’s father, they spent holidays and vacations together for Deja’s sake. Ms. Joefield’s grandmother lived across the street, and Deja knew she could always go to her great-grandmother’s apartment in an emergency.

One night, exhausted, Ms. Joefield put Deja to bed, and plopped into a bath with her headphones on.

“By the time I come out, I’m looking, I don’t see my child,” said Ms. Joefield, who began frantically searching the building. Deja, who was 5, had indeed headed for the grandmother’s house when she couldn’t find her mother, but the next thing Ms. Joefield knew, it was a police matter.

“I’m thinking, I’ll explain to them what happened, and I’ll get my child,” Ms. Joefield said.

For most parents, this scenario might be a panic-inducing, but hardly insurmountable, hiccup in the long trial of raising a child. Yet for Ms. Joefield and
women in her circumstances — living in poor neighborhoods, with few child care options — the consequences can be severe. Police officers removed Deja from her apartment and the Administration for Children’s Services placed her in foster care. Police charged Ms. Joefield with endangering the welfare of a child.

She was caught up in what lawyers and others who represent families say is a troubling and longstanding phenomenon: the power of Children’s Services to take children from their parents on the grounds that the child’s safety is at risk, even with scant evidence.

The agency’s requests for removals filed in family court rose 40 percent in the first quarter of 2017, to 730 from 519, compared with the same period last year, according to figures obtained by The New York Times.

In interviews, dozens of lawyers working on these cases say the removals punish parents who have few resources. Their clients are predominantly poor black and Hispanic women, they say, and the criminalization of their parenting choices has led some to nickname the practice: Jane Crow.

“It takes a lot as a public defender to be shocked, but these are the kinds of cases you hear attorneys screaming about in the hall,” said Scott Hechinger, a lawyer at Brooklyn Defender Services. “There’s this judgment that these mothers don’t have the ability to make decisions about their kids, and in that, society both infantilizes them and holds them to superhuman standards. In another community, your kid’s found outside looking for you because you’re in the bathtub, it’s ‘Oh, my God!’ — a story to tell later, he said. “In a poor community, it’s called endangering the welfare of your child.”

Lawyers for parents say the spikes in child removals tend to occur after high-profile failures in the system, and this could well describe the pattern now: In December, the agency administrator resigned after two children who were being monitored by the agency were beaten to death in separate incidents.

As a result, an independent monitor is now assessing the agency, and the new commissioner, David Hansell, has promised to reform it.
Mr. Hansell said in an interview that Children’s Services has been trying to shift from ordering removals to offering support. He supplied figures showing that emergency removals of the kind that took Deja from her mother were about the same, a little over 300, in the first two months of 2017 as during the same period in 2016.

Vivek Sankaran, a professor at the University of Michigan Law School, has examined short-term placements of children in foster care. He learned that in the 2013 federal fiscal year, 25,000 children nationwide were in foster care for 30 days or fewer, about 10 percent of the total removals.

“We’ve inflicted the most devastating remedy we have on these families, then we’re basically saying, within a month, ‘Sorry, our mistake,’” he said. “And these families are left to deal with the consequences.”

After Ms. Joefield was released from jail, she had a court hearing, and Deja was returned to her after four days. Still, the case stayed open for a year, during which she had to take parenting classes, and caseworkers regularly stopped by her apartment to do things like check her cupboards for adequate food supplies and inspect Deja’s body for bruises. “They asked me if I beat her,” Ms. Joefield said. “They’re putting me in this box of bad mothers.”

“It’s a slap in your face to have someone tell you what you can and cannot do with a child that you brought into this world,” she said, wiping tears away.

“I still get nervous,” she said. “You’re afraid to parent the way you would normally parent.”

**Birth and Then Shackles**

In the spring of 2015, Elizabeth Latimer, then a public defender, was working a shift at Brooklyn Criminal Court when she was told she had a new client.

The woman was in a cell in the back of court, wearing a hospital gown and bleeding heavily. Ms. Latimer’s notes about the client read, “Just gave birth Sunday.” It was Tuesday.
The woman’s medical files show that she had been in her apartment with her 6-year-old daughter when she started bleeding, and felt numbness in one leg.

Her due date was still weeks away. Frightened, she called an ambulance. Then she realized her boyfriend, who was at nearby job-placement program and didn’t have a cellphone, would have no way of knowing if she went to the hospital. So she left her phone with her daughter, told her to stay in their apartment, and walked to the boyfriend’s training site, about eight blocks away.

“I’m like, I understand I’m not supposed to leave my daughter, but it’s an emergency,” said the woman during an interview. Her lawyers asked that she not be named, because her case is still open.

Doubled over with contractions, it took her about 40 minutes to get to the site and back. When the couple returned to the apartment, it was swarming with people. Emergency workers had arrived as she’d requested; finding the daughter alone, they had called the police.

By the time the woman was taken to the hospital, her contractions were four minutes apart, medical records reviewed by The Times show. While she was in labor, police officers stood by her bedside. When a nurse explained to her that she was under arrest, she asked, “How?”

Once she had delivered, her feet were shackled and her hands cuffed to her bed, the records show. Her only reprieve: an officer agreed to take off the cuffs while she breast-fed her newborn son, she said. She was discharged from the hospital with a fever, breast pain, severe abdominal pain and instructions to take various medications. Officers took her from the hospital to criminal court, where, after waiting for hours, she was charged with endangering the welfare of her 6-year-old.

In New York, authorities pursue child neglect cases on two tracks. The district attorney can file a criminal charge of child endangerment; separately, the Administration for Children’s Services can file a family court case, often asking that the child be removed from parental care to the home of a relative, or to foster care. Either police officers or agency workers can take a child from a home if they find
imminent risk; agency workers must file a petition in family court by the next court
date, at which time they must justify the removal at a hearing.

During her criminal arraignment, the woman sat slumped in a chair, unable to
stand.

“I was in pain, I was in badly pain, ready to pass out,” she said.

She found out then that Children’s Services had put her daughter in foster care,
but the woman didn’t know where. Because she had tested positive for marijuana,
and because of the child endangerment case involving her daughter, she was not
allowed to take her newborn son home.

Released from court, she walked 30 minutes each way to the hospital to nurse
the baby twice a day. Her breasts became overfull. “I was walking like this on the
street,” she said, folding her arms over her chest.

As soon as he was medically cleared to leave the hospital, her newborn son was
placed in foster care.

After the woman filed an emergency petition, both children were returned to her
after 30 days.

Her criminal case was to be dismissed if she attended parenting classes, while
her family court case had no such stipulation. Confused by the conflicting
requirements, the woman didn’t attend classes. Three months ago, she was arrested
on a warrant for not taking the parenting classes; her case remains open.

Her daughter, interviewed at their apartment, said that she was “sad” when she
was sent to the foster home.

Back home, she said, she was “happy.”

She pulled at some Silly Putty. “I get to spend time with my mommy,” she said.
A Lasting Effect

Even short-term removals that are reversed can have lasting effects on vulnerable children. It “poses a pretty big threat to their development,” said Kristin Bernard, an assistant professor of psychology at Stony Brook University. A brief stay in foster care like that of Ms. Joefield’s daughter, Deja, can profoundly upset family life.

Mr. Hansell, the commissioner, said the agency was trying to steer away from removing children from the home.

“With increasing frequency over the past six months or so,” he said, “the outcome of our involvement with family court has not been removal of children but court-ordered supervision, under which families are required to participate in services to address the risks that we’ve identified.”

As Ms. Joefield, 32, talked in her Brooklyn apartment, the living room was filled with happy familial chaos. Her toddler shook a box of cereal, her cat’s collar bell tinkled, and Deja, now 13, climbed on the couch, trying to get the cat’s attention.

According to court records from Ms. Joefield’s case, a passer-by found Deja, who was then 5, out on the sidewalk at midnight. The records noted that Deja appeared well looked after. Deja told interviewers that she attended school daily and usually ate pancakes for breakfast.

Deja’s pediatrician told the agency that “Ms. Joefield is very attentive” and that “Deja is a smart kid.” Administrators at Deja’s school said they had no concerns. And Children’s Services, in a report on the family, noted that Ms. Joefield was in college; Deja’s father, who lived nearby, was employed and involved; Deja was “very intelligent for her age”; and there was plenty of family support.

Still, the agency pushed for Deja to be removed, though records show the great-grandmother called the agency asking that Deja be sent to her. Deja’s father was also available.

“This is my opinion: they factored in my age” — she was 25 at the time — “where I lived, and they put me in a box,” Ms. Joefield said.
In Ms. Joefield’s case, a judge decided that “the risk of emotional harm in removal” outweighed the risk of neglect. Deja was returned to her mother.

The Administration for Children’s Services declined to comment on specific cases.

But those four days in 2010, Ms. Joefield said, had produced long-lasting effects.

First, her name remained on a state registry of child abusers for years, preventing Ms. Joefield, a former day care worker, from working with children. Most important, she said, speaking of Deja, the experience had “changed her.”

When her daughter came home, she said, “she was always second-guessing if she did something wrong, if I was mad at her,” she said.

Research backs up what Ms. Joefield noticed. Removal is traumatic for children, even if home life is stressful.

Joseph Doyle, an economics professor at the Massachusetts Institute of Technology’s Sloan School of Management, used statistical methods to analyze the effect of foster care placement in so-called marginal cases — those in which a strict investigator might put a child in foster care, but a more lenient investigator might not. Over time, the children sent to foster care had higher delinquency rates, higher teen birthrates, lower earnings and a higher likelihood of going to prison as an adult.

Months after Deja’s removal, a caseworker with Children’s Services asked an administrator at Deja’s charter school about the girl. The administrator said, according to agency records, that while she had no concerns about Ms. Joefield’s care, Deja was “not doing as well as she used to before she was removed from her home.”

**Living Conditions**

The threat of the agency removing children has become a weapon landlords use to force out lower paying tenants. According to dozens of public defenders and
housing lawyers, some parents face a stark choice: leave their apartments or lose their kids.

Bernadette Charles found this out when her apartment, in the East Flatbush neighborhood of Brooklyn, experienced problem after problem. A sluice of brown water came through the ceiling, ruining the suede couch she had just purchased on credit. Large rats took over the kitchen.

While her husband spent his days driving a school bus, she spent hers worrying about how each new hazard would affect her four sons. At first she kept quiet. She felt fortunate to have a place where her family could meet the rent. One day she walked into the bathroom to find black mold sprouting in paisley patterns on the walls. For Ms. Charles, that was the breaking point.

Ms. Charles said that when her landlord learned she had complained to 311 about conditions, he punished her by calling Children’s Services. The agency worker arrived days later. The worker cited unsafe conditions, including roaches and dirty dishes in the sink. Despite noting that the couple’s four children were “clean and healthy,” the worker said they could not stay and removed the children. Ms. Charles remembers her youngest, who was 3 at the time, wailing as he was taken from the apartment.

“He didn’t want to give us any chance,” Ms. Charles said of the Children’s Services agent. Three days later, a judge ordered that the family be reunited.

Vanished Months

One December night in 2011, Colyssa Stapleton ran out of formula for her 7-month-old, Nevaeh, and texted Nevaeh’s father, who lived nearby, asking him to buy some. When he texted back that he was en route and she should come downstairs, Ms. Stapleton dashed to the yard of her Brooklyn apartment building to wait for him.

Unfortunately for Ms. Stapleton, the police were patrolling the area and her aunt was in the yard smoking marijuana. Ms. Stapleton says she was not smoking and the police report noted that only one joint was found and that Ms. Stapleton’s
aunt was seen throwing it to the ground. But both women were charged with marijuana possession.

Ms. Stapleton protested that her infant daughter was upstairs by herself. The police officers accused Ms. Stapleton of endangering the welfare of a child.

They took Nevaeh to the hospital, where she was found to be “in great condition.” Even so, Children’s Services placed Nevaeh with her father for six months and Ms. Stapleton was forbidden contact.

“I thought of where I could’ve tried and done something better, but taking her all the way downstairs and all the way upstairs — I didn’t think of it as something that would get you into trouble,” said Ms. Stapleton, now 24.

When she saw Nevaeh after several months, in the hallway of family court, the girl cried. “Her dad was like, ‘Now you don’t know nothing about her,’ and he was right,” she said.

Without her daughter to take care of, Ms. Stapleton sank into depression. “It came to a point where I’d shut myself into a room and not come out, not eat,” she said.

After a year and a variety of parenting classes taken during 2012, the criminal charges were functionally dismissed, and she regained full custody of Nevaeh, but Ms. Stapleton said she is aware of what she lost.

“She didn’t take her first steps around me, so I missed that. Her first tooth, I didn’t get to see that,” she said. “I don’t think anybody should be robbed of those things unless they really deserved it.”

A version of this article appears in print on July 23, 2017, on Page MB1 of the New York edition with the headline: Foster Care as Punishment.
WHAT SHOULD A CHILD BE TAKEN FROM HIS PARENTS?

_In family court, judges must decide whether the risks at home outweigh the risks of separating a family._

By Larissa MacFarquhar

What should you do if child-protective services comes to your house? You will hear a knock on the door, often late at night. You don’t have to open it, but if you don’t the caseworker outside may come back with the police. The caseworker will tell you you’re being investigated for abusing or neglecting your children. She will tell you to wake them up and tell them to take clothes off so she can check their bodies for bruises and marks. She will interview you and your kids separately, so you can’t hear what she’s asking them or what they’re saying. She opens your fridge and your cabinets, checking to see if you have food, and what kind of food. She looks around for unsafe conditions, for dirt, for mess, for bugs or rats. She takes notes. You must be as calm and deferential as possible. However disrespectful and invasive she is, whatever awful things she accuses you of, you must remember that child protection has the power to remove your kids at any time if it believes them to be in danger. You can tell her the charges are not true, but she’s required to investigate them anyway. If you get angry, your anger may be taken as a sign of mental instability, especially if the caseworker herself feels threatened. She has to consider the possibility that you may be hurting your kids, that you may even kill one of them. You may never find out who reported you. If your child has been hurt, his teacher or doctor may have called the state child-abuse hotline, not wanting to assume, as she might in a richer neighborhood, that it was an accident. But it could also have been a neighbor who heard yelling, or an ex-
boyfriend who wants to get back at you, or someone who thinks you drink too much or simply doesn’t like you. People know that a call to the hotline is an easy way to blow up your life. If the caseworker believes your kids are in imminent danger, she may take them. You may not be allowed to say goodbye. It is terrifying for them to be taken from their home by a stranger, but this experience has repercussions far beyond the terror of that night. Your children may hear accusations against you—you’re using drugs, your apartment is filthy, you fail to get them to school, you hit them—and even if they don’t believe these things they will remember. And, after your children see that you are powerless to protect them, this will permanently change things between you. Whatever happens later—whether the kids come back the next week, or in six months, or don’t come back at all—that moment can never be undone.

The caseworker has sixty days to investigate the charges against you. She will want you to admit to your faults as a parent, and you should, because this tells her you have insight into your problems and that you have a sincere desire to accept her help and change your life. But you should admit only so much, because she is not just there to help you: she is also there to evaluate and report on you, so anything you say may be used against you in court. The Administration for Children’s Services—A.C.S., as child-protective services is known in New York City—has to prove its allegations against you only by “preponderance of the evidence.” It can bring in virtually anything as evidence—an old drug habit, even if you’ve been clean for years; a D.U.I.; a diagnosis of depression. While the court case is proceeding, you may be asked to submit to drug testing or a mental-health evaluation, to attend parenting classes or anger-management classes or domestic-violence classes and some kind of therapy. These services are intended to help you, but, if you want to get your kids back, they are not really voluntary, even though they may be so time-consuming and inflexibly scheduled that you lose your job. The more obedient you are, the better things will go for you. Even if you are innocent and can prove it, it could be more than a year before you get a hearing, and
during those crucial months your compliance and deference are the currency that buys you visits with your children.

When should you take a child from his parents?

You must start your investigation within twenty-four hours of the hotline call. Go at night—people are more likely to be home. As you look around, you have to be very, very careful, because if you miss something it will be partly your fault if a child ends up hurt, or dead. You may be shocked by the living conditions you encounter, but you’re not allowed to remove children solely because of poverty—if, for instance, there’s no food in the kitchen because the parent’s food stamps have run out—only for “imminent risk” due to abuse or neglect. But it’s often difficult to draw a line between poverty and neglect. When a child has been left alone because his mother can’t afford childcare and has to go to work, is that poverty or neglect? What if the child has been injured because there wasn’t an adult there to prevent it? Unless you’ve become desensitized through repetition, emergency removals are awful. Parents may scream at you and call you terrible names. Sometimes a parent will get violent. When you suspect in advance that a situation is going to be dicey, you can bring a colleague or a police officer, but sometimes things turn very fast and you’re on your own. If you remove the children that night, you will take them to a processing center to be assigned to a temporary foster home. Once you get there, it could take a long time for a home to be found—many hours. The children sit and wait, along with other children in the same situation. They may be crying, but it’s unlikely you will be able to comfort them, because you may never have met them before, and you have just separated them from their parents. If the children ask you where they’re going next, or when they’ll go home, or if they’ll stay together with their brothers and sisters, you can’t answer them, because you don’t know.

After that first visit, you have sixty days to investigate the charges. You should interview the child’s teacher, his pediatrician, and anyone else you think relevant. You should seek out neighbors and relatives; they may be too wary to
talk to you, or else so eager to talk that you suspect they’re trying to get the parent in trouble. You must also draw out the parent herself; this is tricky, because you must play two conflicting roles—helper and investigator. Even if you feel for the parent and believe her kids should not be taken away, that is not the end of the story, because the final decision to ask in court for the removal of children is not yours to make; your supervisor, or your supervisor’s manager, will make it. Even though this manager has likely never met the parent or her kids, she may override your recommendation and take what she believes to be the safer course of action. Many at A.C.S. believe that taking kids from their parents is the cautious thing to do. Nobody wants to end up on the front page of the *Daily News*. You are working to protect children, and you will remind yourself of that when your job gets really difficult. Maybe once or twice a parent will thank you, and tell you that the services you provided made a difference in her life, and you will feel that those thanks make up for all the other parents who cursed at you and called you a baby snatcher. But that’s unlikely. The turnover among A.C.S. caseworkers is very high.

This is how Mercedes describes what happened. She was running a bath for her children. It was 2009, so Leslie was eleven months old and Camron was two. (To protect her kids’ privacy, Mercedes provided pseudonyms.) She plugged in her curling iron, because she was planning to curl and wrap her hair while they were in the tub. The kids were playing with toys in the living room. She left the curling iron on the side of the sink and went to fetch towels. She heard crying and, running back to the bathroom, she saw that Leslie had pulled the hot curling iron off the sink by its dangling cord, and it had fallen on her legs and burned them. She looked at the burns and they weren’t blistering, so she figured they were O.K.

The next day, at her cousin’s house, she saw that the burns had blistered, and announced that she was going to take Leslie to the E.R., but her aunt told her, Do not go to the E.R. If they see those burns, child services will take your kids. So she didn’t. The next day, she went to her mother’s house. She and her
mother started fighting, as they usually did, and she left the apartment with Leslie and sat with her outside. It was a warm night. She saw two women she didn’t know walk past her and into the building. Her mother called her phone and told her to come upstairs. The two women were in her mother’s apartment; they told her they were from A.C.S., and had come to see what happened to the baby.

She answered a few questions, growing increasingly outraged, and then, guessing her mother had called A.C.S. to get back at her, began cursing at her and screaming that she would never see her grandchildren again. She started putting on Leslie’s clothes to leave, but the A.C.S. women told her that first they had to take photographs of Leslie’s burns. Mercedes said no, she was going, and one of the women said, Miss, you are making me real nervous right now. The women left, but a few minutes later they came back, accompanied by a couple of policemen. Mercedes sat on the floor crying, holding Camron and Leslie and begging the women, Don’t take my kids, please don’t take my kids. But her mother, believing it was best to comply, picked up Camron and then Leslie and gave them to the women, both kids wailing, and the women took them away.

Mercedes grew up in Brooklyn. Her father was a drunk, who beat her and her mother. One time he nearly killed them, trying to run their car off the road as they fled from him on the Belt Parkway. When Mercedes was old enough to understand what was going on, she started calling the cops on him. When she was older still, she started running away, at which point her mother called the authorities on her. When she was a teen-ager, her mother sat the kids down and they voted on whether they should kick their father out of the house. Mercedes’s younger brother, who was six, voted no, but Mercedes and her older brother and her mother voted yes, so her father left. Mercedes got pregnant when she was fourteen, but her boyfriend beat her up and she lost the baby. When she was eighteen she got pregnant again. Her father turned up and beat her, but she didn’t miscarry, and in 2007 she had her first baby, Camron.
Camron’s father had told her to get an abortion, and was violent with her, too, so her mother came and brought her home. “She told me, ‘I’m going to help you with the baby, I got you,’ ” Mercedes says. But although Mercedes and her mother were best friends when they weren’t living together—they talked every day on the phone, spent every weekend together—when they were in the same house they fought constantly, and when Camron was eight months old Mercedes’s mother threw her out, so Mercedes and the baby moved into a shelter. When she got pregnant again, with Leslie, the same thing happened: she moved in with her mother and then ended up in a shelter again six months later. It was in this second shelter that the incident with the curling iron occurred.

At the Bronx Family Court, A.C.S. argued that Mercedes had burned Leslie with the curling iron on purpose, but the judge was not persuaded. Rejecting the charges of abuse, she issued a lesser finding of neglect, because Mercedes had failed to supervise her children properly and had not taken Leslie to the hospital. The children were put into foster care with Mercedes’s cousin, and Mercedes set about doing what A.C.S. told her she had to do to get them back—going to parenting class, submitting to inspections by a caseworker. By this time, she was pregnant again. “The first thing that caseworker said to me when she met me was not ‘Hello’ but ‘Oh, you’re pregnant again? They ain’t going to do nothing but take that baby, too.’ That was the first thing that came out of her mouth.” But the caseworker was wrong: shortly before Mercedes gave birth to her third child, Tiana, the judge gave Camron and Leslie back to Mercedes, on the condition that she live with her mother.

A.C.S. was still uneasy about Mercedes, however. Right after Tiana was born it requested that the court find “derivative neglect” of Tiana by Mercedes, on the ground that she had been found to neglect Camron and Leslie, and argued that all three children should be taken into foster care. It pointed out that Mercedes’s home had been observed to be unsanitary on at least two occasions, that she had refused to participate in drug treatment despite admitting that she smoked marijuana “whenever I get the urge,” and had missed two child-
safety conferences, and therefore posed an imminent risk to Tiana’s life or health. But the children’s attorney argued that Mercedes should be allowed to keep the baby, and the judge agreed.

Six months later, A.C.S. filed another petition to remove the children: Leslie had cellulitis and eczema, and Tiana was seriously underweight, and A.C.S. argued that the persistence of these problems suggested that Mercedes was failing to care for them properly. The judge pointed out that since Tiana had not gained weight even during a two-week stay in the hospital, it was not clear that Mercedes had anything to do with it. (Years later, Tiana was given a diagnosis of growth-hormone deficiency.) Moreover, she said, there was a strong bond between mother and infant, the disruption of which would only make things worse. Three months after that, A.C.S. tried to remove Tiana a third time, but again the judge said no.

Mercedes fought with her mother and moved with the kids to a shelter again, but there were bedbugs, so she left. The next day she took Leslie and Tiana to the doctor, and he told her they were so sick he wanted to admit them both to the hospital. For a couple of nights she and Camron slept in the girls’ hospital room, but the hospital kicked them out. Then, soon afterward, Mercedes’s mother and a woman friend of hers from church turned up at the hospital, along with a caseworker from A.C.S. The caseworker told Mercedes that since she didn’t have anywhere for Camron to go she had to give him to either her mother or the friend, or else A.C.S. would take all three kids. As Mercedes understood the arrangement, the caseworker promised her that, if she gave up Camron temporarily, then when the girls were released from the hospital A.C.S. would get the family on a priority list for proper housing and she would get Camron back. Mercedes desperately needed housing, and she didn’t have anywhere else for Camron to go, so she said O.K. Because she was still angry with her mother, she told the caseworker that Camron could go with the friend. That turned out to be the wrong decision.
Leslie was released from the hospital a few days later, and she was given to the friend, too. Mercedes kept calling A.C.S., asking when she was getting her kids back. Tiana was still in the hospital—were they waiting for her to be released? Why did she not have Leslie? When was she going to get her housing? What was going on? But now a caseworker was telling her that she had given up all three children of her own free will.

The judge on Mercedes’s case was Carol Sherman, who had worked in family court in various capacities for nearly forty years. As a law student, she had studied reformatories in Massachusetts and was appalled by what she saw—children being held in prisonlike conditions, with only the most rudimentary attempts at education—so when she graduated she looked for an organization that defended children in court. She found only one, the Juvenile Rights Division of the Legal Aid Society in New York, and went to work there in the summer of 1971. The reason she could find only one such organization was that, until a few years before, juvenile defense had not been thought necessary. The Progressive Era creators of family court had imagined its judges as quasi-parents, helping rather than punishing, ruling benevolently in a child’s best interest. But, in 1967, the Supreme Court ruled that it was irrelevant whether a judge felt benevolent or not: family court had the power to deprive citizens of their liberty, and that kind of state power had to be restrained by the law, so a juvenile delinquent was entitled to an attorney.

The mission to protect children, combined with the excitement of creating a whole new field of law, made the Juvenile Rights Division in the early seventies a thrilling place to be. Martin Guggenheim, now a professor of law at N.Y.U., arrived at the same time that Sherman did, and together they felt themselves to be part of a righteous crusade on behalf of their underage clients. “We defended murderers and muggers with zeal,” he says. “And if our client was found guilty and sent away, we’d say, That fucking judge. We were warriors!”
When Sherman and Guggenheim started out, their caseload was almost all delinquencies. But then growing awareness of “battered-child syndrome”—an awareness that the abuse of children at home was not a rare pathology but a frequent occurrence that demanded attention—led, in 1974, to the Child Abuse Prevention and Treatment Act. The Juvenile Rights Division saw more and more abuse and neglect cases, and as this happened a divide opened among the warriors. To Sherman, it seemed clear that these new cases were very different—that whereas in the delinquency cases children accused of crimes had to be protected from the state, in the neglect and abuse cases the state itself was protecting children, from their parents. But to Guggenheim the child-welfare cases and the delinquency cases looked all too similar: in both, the state possessed the fearsome power to remove children from their homes, and so in both that power had to be kept in check.

By the time Sherman became a judge, in 2008, a great deal had changed in family court. In the eighties and nineties, putting children in foster care was very common: in 1991, there were nearly fifty thousand children in care in New York City. But study after study had shown how harmful foster care could be, and judges had become leery of it; by 2005, the number had dropped to eighteen thousand. (It is now under nine thousand.) But this didn’t mean that all the children who were no longer in foster care had stayed with their parents: many experts in the field had come to believe that the solution to the problem of children spending years in foster care was to speed up adoption. In 1997, Congress passed the Adoption and Safe Families Act, which required states to file for termination of parental rights in most cases when a child had been in foster care for fifteen of the previous twenty-two months. This gave parents far less time to satisfy child-protection agencies that they had adequately reformed, and made it far more likely that they would never get their children back.

Sherman knew that foster care could be harmful, so she felt more comfortable removing children if there was a relative who could pass a background check.
and take them—she believed that children almost always did better with family.

SHERMAN: Did the father sign the birth certificate at the hospital?

A.C.S.: I believe so.

SHERMAN: Does the mother have contact with the child?

A.C.S.: The mother attended the child safety conference but she became upset and walked out and told the father it was his baby now.

She worked tirelessly, aware that she now had more power than ever to affect children’s lives. She read every report in advance, she took detailed notes and reviewed them, she interrogated.

SHERMAN: I’d like to see the police report, this makes no sense. Where is the child?

A.C.S.: With the paternal grandmother.

SHERMAN: And what are you asking for today?

A.C.S.: The removal of the child to A.C.S.

SHERMAN: Based on the mother leaving the child alone on one occasion for thirty minutes?
A.C.S.: This is a very young child, less than seven months old, he cannot fend for himself.

MOTHER’S LAWYER: The very age of the child suggests that he should stay with the mother. She is breast-feeding, she has been his mother since birth.

SHERMAN: How do you know the child was left alone for thirty minutes?

A.C.S.: The child was found alone by the father’s brother.

MOTHER’S LAWYER: The child was left with the uncle.

SHERMAN: Wait, the father’s brother was home with the child?

A.C.S.: The brother stated that he came home and found the child.

SHERMAN: But why do you believe the brother over the mother? What do we know about him?

When it came to abuse, she tried to parse the different sorts of violence. Was the parent whipping with a belt, which was painful but not usually dangerous, or choking, which was? And why was the parent doing these things in the first place? “Is there mental illness?” she asks. “Is there so much anger that this person really can’t control it? It may be that this parent has every reason in the world to be angry, not at the child but at a whole host of experiences he’s had
in his life—I’m not here to judge that. But how does that impact his ability to
deal with his child? Young children can be really frustrating—the constant
crying, not doing what you tell them to do.” Did the parent have an unrealistic
idea of how well a young kid could be expected to behave? Or did he simply
believe that hitting was the right way to raise a child? It was difficult to draw a
line between corporal punishment and abuse, and judges drew that line in
different places.

SHERMAN: The court does find
that A.C.S. has met its burden. J.
tested that his father beat him,
punched him, and stomped on
him, that he had been beaten by
his father since he was two years
old, and that he has seen his father
hit C. This court is aware of Mr.
A’s issues with anger control. The
court is also aware that Mr. A
cares very much for both of his
children.

Some of the hardest cases were those in which a doctor did not believe a
parent’s explanation of how a child had been hurt. It could be incredibly
difficult to know what to do. “Often the injury can be horrific,” Sarah Cooper,
another judge at the Bronx Family Court, says. “A skull fracture, a broken
femur, retinal hemorrhaging, which is typical of a shaken baby. When there
are these horrific injuries, everybody’s on edge. Who broke the baby?
Somebody broke the baby. And often there are multiple caretakers—maybe
two parents in a home, maybe a grandmother, an aunt, a babysitter. You have
four people in front of you who are all held accountable, and the likelihood is
one, maybe, did something, and two or three other people are just roped into
it. But how do you say, O.K., take your baby home with their unexplained
skull fracture? Nine months down the road we’re looking at a trial—medical
experts come in and start lecturing about the ribs, genetic metabolic anomalies, brittle-bone disease, rickets—and that takes years. For a baby, that’s a lifetime—it’s all of the bonding, all of the early-life attachment. And ultimately perhaps we never know what happened.”

But abuse, in fact, made up only a small percentage of the cases that came through Sherman’s courtroom. The vast majority of child-protective cases involved neglect, and these could be even trickier. In a neglect case, it was a matter less of stopping something obviously terrible from happening than of filling in the deficits in a child’s life, and the question of what constituted a deficit big enough to count as neglect was difficult to settle. It was also hard to tell when neglect suggested that something more worrying was going on. “The question is, what else is this parent doing that their living conditions look like this?” Sherman would ask. “That they’re so filthy dirty, the children are filthy dirty, the food is rotting—what else is going on here? Is the parent depressed? Does the parent have developmental disabilities? Is there drug use? Or is it none of those things and we just have to teach her how to keep a clean home?”

Figuring out what was really going on was hard, because she had no firsthand knowledge of the situation and was forced to rely on the testimony of caseworkers, whose skill and diligence varied considerably. She scolded them when their work was sloppy, but in the end she usually sided with A.C.S.

Sherman became known in family court for examining the tiniest of details. When inquiring how a child was doing, she wanted to know everything there was to know about him. “I want to see every report card, and if the child isn’t doing well in school I order tutoring in the home,” she says. “I will order P.S.A.T. and S.A.T. review courses. Information about scholarships. My experience is that unless I give a very detailed order the things that need to be done won’t necessarily get done.” She was notorious among caseworkers for her obsession with summer camp: if a child was not enrolled by the middle of spring, she would issue an order requiring it. She found out that one boy loved science but had never been to the natural-history museum, so she issued a court order requiring his foster mother to take him there. When he was
adopted, she bought him a book about atoms and tickets to the planetarium to celebrate. Although she issued dozens of orders in every case, she kept track of all of them, and excoriated the caseworkers when they weren’t carried out. Some judges seemed to be concerned chiefly that their cases proceeded according to schedule; Sherman was not one of them. “Judge Sherman cares very deeply for children,” Mary Anne Mendenhall, Mercedes’s lawyer, says. “That is something you can never doubt.”

Sherman would often say, “All the children before me are entitled to everything that my child’s entitled to.” To her, this was a matter of social justice: she believed that it was not right for poor children to be deprived of the after-school activities and therapy and evaluations and tutoring and domestic orderliness that middle-class children had, so when a child came into her purview she did her utmost to insure that the child’s life and prospects were substantially improved before she was done with him. The trouble was, what to her seemed like helpful services could feel to a parent like intrusion, and the high standards she set could become barriers to reunification. “It moved into social control very quickly, in her courtroom,” Emma Ketteringham, the managing director of the Family Defense Practice at the law firm the Bronx Defenders, says. “I will never forget one case where a case planner had put in her report that there was a lot of stuff in the crib. Judge Sherman issued an order that nothing be allowed in the crib except the baby.”

MOTHER’S LAWYER: My client did not accept the cleaning service because she’s about to be evicted so she didn’t see the point.

Sherman knew that services didn’t always work, and that parents often resented them, but her job was to protect children, so she did the best she could with the tools she had. What else could she do? “Mental-health services, drug treatment—sometimes they’re beneficial, sometimes not,” she says. “There are old studies on batterers’ programs which said they did not have
much of an impact. People are trying to figure out what can we do—we have to change people’s behavior. I think just being brought to court and having a child removed has a very sobering effect. But some parents are willing to say, I’d like to learn a better way to do it, and others are not.”

“Carol does not see intervention as a terrible cost,” Guggenheim says. “She sees it as a price to pay to avoid what is for many in this field the thing to avoid above all else: wrongfully failing to protect a child. She really has a Progressive mind-set, in that she sees herself as the instrument of power to improve children’s lives. But, on the privileged side of town in all parts of America, children are raised by drunks, by drug addicts, by violent people. We don’t care how privileged children are raised, because we’ve arranged our world around the fundamental principle that the state doesn’t intrude on the family. Equality requires that we give the same freedom to underprivileged children as we give to privileged children—to be raised by crappy parents.”

For a long time after she lost her children, Mercedes was homeless. She couldn’t sleep at her mother’s anymore, and she didn’t have close friends, so she floated from place to place, staying in each as long as her host would let her, sometimes staying with someone she had met that day. She refused to go to a shelter for single women—she had heard there were fights in those places, and people stole things. She was used to this. Her life had been this way since she was sixteen—staying with her mother, getting thrown out, staying with a friend, getting in an argument, moving on. Besides, she didn’t have her kids, so she barely cared what happened to her. “When they take your kids, it’s like everything stops,” she says. “Your heart stops. Everything stops. Then you’re trying to figure out what the hell to do next. What do I do? Once they take them, you don’t have no reason to be here no more. Your kids give you purpose.”

She was permitted to see her children each week in a room at the foster-care agency, but she came to dread these visits, because they were so short and saying goodbye was awful for everyone, and because someone from the agency
would watch them, taking notes on how she and the kids behaved together. But mostly she dreaded them because the kids had started saying things about her. They said that their foster mother had told them that Mercedes was bad, that she was a drug addict, that she didn’t want them back. Mercedes started coming late to visits, and sometimes she wouldn’t show up at all, and the kids would get very upset. Sherman ruled that if Mercedes was late for a visit it would be cancelled, and Mercedes was late. She was late for court dates, too. “Mercedes has no sense of time,” her mother says. “I tell her, Don’t leave when you feel like it, stop getting up when you feel like it, you got to be in court at twelve, how dare you get there when it’s over?” The foster agency warned the foster mother not to disparage Mercedes in front of the children, but she continued to do it. (A.C.S., Judge Sherman, and the foster agency all have a policy of not discussing open cases.)

Before she took in Mercedes’s kids, the foster mother had been earning a little money cleaning houses and watching people’s children, but now she began receiving foster-care benefits. Mercedes’s children were medically complicated, so the payments were higher than usual. For “special children” in New York, foster parents are paid up to $1,289 a month; for “exceptional children,” the payment is $1,953; so to take care of all three of them the foster mother was likely being paid between forty-six and sixty-two thousand dollars a year, plus up to seventeen hundred dollars a year in clothing allowance. If she ended up adopting the children, she would receive benefits until each child turned twenty-one.

She wanted to adopt them. In the past, foster parents often did not want to adopt, so if a parent’s rights were terminated the children were forced to go to yet another home. To overcome this problem, the foster agency that was supervising Mercedes’s children had a policy of encouraging foster parents to consider adoption. The trouble with this solution was that foster parents were prompted from the start to form attachments to the children, and their hopes were pitted against those of the biological parents.
While the case dragged on and Mercedes drifted, the agency was helping the foster mother with housing. “They done moved this lady three times, and every time the apartment’s getting bigger,” Mercedes said bitterly. “But you can’t help the biological mother who’s showing you that she wants her kids? If they would have done that for me in the first place, I wouldn’t be in the situation that I’m in now, and I’d have my kids.” Between constantly moving from place to place and feeling that A.C.S. had it in for her, and wasn’t going to return her kids no matter how hard she tried or how many parenting classes she enrolled in, Mercedes had started to fray. “By this time, I’m tired. I love my kids, but I’m tired. My mind is tired. My body is tired. I keep getting—excuse my language—dicked around by A.C.S. They’re lying to me, they’re being disrespectful. So I start to disappear for a while.”

Every time she came to court she felt surrounded by people who were convinced that she was a bad mother and a bad person, although they barely knew her. “At one point, we had a court date when the lawyer for the foster-care agency first came on,” she says. “And when we met outside he kept saying, ‘Oh, you’re really clean.’ What the fuck does that mean? ‘I don’t see nothing wrong with you, you look clean.’ Because I’m black I’m supposed to be dirty?” She would sit in the courtroom resentfully listening to the caseworker note when she’d been late to a visit, or missed a therapy appointment, but not mention when the foster mother was late, or when she missed the kids’ doctors’ appointments, or that she had been telling the kids terrible and untrue things about their mother. The lawyers only ever brought up the bad stuff about her, she felt; never the good. One time when she was at a conference at the foster-care agency, Leslie burst into the room and said, “I have an announcement to make—I love my mommy”; and then next time they were in court there was Leslie’s attorney advocating against reuniting her with her mother, and there was no mention of what Leslie had said until Mary Anne Mendenhall, representing Mercedes, brought it up.

The judge kept saying she understood Mercedes, because they had been encountering each other in court for years, but she knew only a few things
about her life. “It always bothered Mercedes when Judge Sherman would look at her and say, ‘I know you very well,’” Mendenhall says. “Mercedes would walk out crying and say, ‘She doesn’t know me! She only knows what they say about me! She’s never talked to me, she doesn’t know anything about who I am.’ Just because of the number of pages she’d read about Mercedes, to feel entitled to look her in the eye and say, ‘I know you very well.’ I don’t think Judge Sherman recognized what that meant to Mercedes. And how wrong it was. And how many times she said it.”

Mary Anne Mendenhall worked at the Bronx Defenders, on East 161st Street, a few blocks from the courthouse. She and her colleagues represented parents in family court, and so they often found themselves at odds with A.C.S. and the foster-care agencies. They believed that A.C.S. frequently drew the line between neglect and poverty in the wrong place—that parents lived in unsafe apartments without enough food and left their children home alone because they had no choice. What was required much of the time, the defenders believed, was not parenting classes but material assistance—housing, childcare, medication, food. They also believed that family court was racist. Why, when the Bronx was forty per cent white, were nearly a hundred per cent of their clients black or Latino? Why was the percentage of the population in foster care twice as high in the Bronx as it was on Staten Island? They believed that child protection had become for black women what the criminal-justice system was for black men.

New lawyers at the Bronx Defenders are asked to stay for three years, and many of them leave as soon as that time is up. A defender in family court will have between seventy-five and ninety clients at a time; each of these clients is in the middle of one of the most painful crises of her life and is depending on her lawyer to get her out of it, and much of the time the lawyer will fail. Almost all desperately want their children back, but some can’t seem to do even the simpler things that A.C.S. requires of them, like being on time for appointments. The defenders ask their clients to do these things—they explain that, even if they may not have anything to do with being a good parent, they
are what the system demands and are the quickest way to get their kids back—but if their clients still don’t do them they have to accept it. “Many of these people have been supervised their whole lives, threatened their whole lives,” Mendenhall says. “If you don’t da-da-da, you’re going to get kicked out of class. If you don’t da-da-da, I’m going to suspend you. And they don’t care. So when I say, If you would just stop smoking marijuana we’d be done with this, they’re probably thinking something like, Do your job—you know I’m not hurting my kids.” There is a saying at the Bronx Defenders: You can’t work harder than your client, and you can’t want it more.

Some clients are constantly in touch, texting, calling, pleading for help. Others disappear and have to be tracked down—they don’t have a fixed home, their phones run out of minutes, they get a new number and forget to mention it. Bronx Defenders who previously worked in criminal court are befuddled by this: they usually knew where their clients were—in jail.

In criminal court, defense lawyers have an established function that everyone understands, but in family court a parent’s attorney who puts up a real fight is still a novelty. Ten years ago, most parents were represented by individual public defenders who were too harried to get to know their clients and often deferred to A.C.S. Even now, the old assumptions of benevolence persist. Although judges know in principle that hearings are adversarial, they may feel that in practice they and the lawyers should be on the same team—after all, everyone wants what’s best for the family. So they may feel affronted when a lawyer clearly doesn’t feel that way, or even seems to believe that other actors in the courtroom are taking their positions because they don’t understand—or don’t sympathize with—what it’s like to be poor. Judges and lawyers for A.C.S. and the foster-care agencies often complain that the Bronx Defenders are too aggressive, apt to make the whole process so nasty. But they are not the only aggressive ones. There’s a lot of yelling in family court—judges telling lawyers to shut up and sit down; judges scolding caseworkers for not doing their job; lawyers sniping at one another in barbed, formal language; parents shouting that accusations are untrue, or about the unfairness of the system.
Sometimes the Bronx Defenders worry that their aggression is bad for their clients. A contentious family court reinforces the belief that the interests of children and their parents can be separated, and this belief usually works to the detriment of the parents. The defenders feel that a large part of what the court and A.C.S. require from parents is compliance and deference, so will it harm their cases if their lawyers show neither? “There certainly are times when judges complain to me, ‘Why can’t you people get along with everybody? You’re doing your clients a disservice by not helping them to do what we’re asking,’ ” Emma Ketteringham says. “And I remind myself, We are not a nonprofit with a mission of reforming the system; our mission is to represent the parents. Now, that is always tricky, because we are members of this system which we all strongly believe is racist and classist and doing harm to the families it claims to serve. But, when it’s an individual client, the conversation must always be: If you invite that caseworker in who is so condescending and rude to you, doesn’t remember your children’s names and has everything wrong about you—if you invite her in and serve her food rather than give her attitude, your children will come home more quickly. It’s unlawful for us to prioritize fighting the system over advocating for our clients, because we have a duty of loyalty.” On the other hand, Ketteringham believes that the small fights they pick are, year by year, having a cumulative effect. “You will now hear judges turn to A.C.S. and say, ‘A parenting class? Really? Wait, domestic-violence therapy and regular therapy?’ That’s from us pushing. Ten years ago it was so much worse, in terms of the cookie-cutter services that everybody rolled their eyes about.”

So much about working in family court was maddening, it was small wonder that people got on each other’s nerves. It had always been that way, and it seemed it always would be, since, each time a solution to a problem was found, that solution seemed to generate new and worse problems of its own. A few years ago, everyone with a court date was told to show up at 9 A.M. and wait. Since it was unpredictable how long the earlier cases would take, a person might wait all day without seeing a judge and be told to come back the next
day, which might mean losing his job; and, once started, a hearing would continue until it was finished, even if it took till eight or nine at night. This was bad for the people who worked at the court, bad for the people whose cases weren’t heard, and bad for the city’s budget, because it required so much overtime. So the court instituted “time certains,” so you could be reasonably sure that your case was going to be heard at a particular time, and it started shutting down promptly at four-thirty every day. But in order to keep to the time certains while moving each case along on the schedule mandated by law, hearings and trials had to be scheduled in short time slots—half an hour, an hour—spread out over the course of many months. In fact, most of the half-hour slots were closer to twenty minutes, because nearly ten minutes was spent trying to agree on a slot to meet the next time, with the judge and three or four lawyers and caseworkers all consulting their scheduling books and calling out when they could and couldn’t make it. And all those months spent piecing together the few hours required for a hearing or trial were months that removed children spent in foster care.

Then, there were the times when family court was even more tense than usual: after a gruesome and highly publicized murder of a child, people in child protection got very jittery and very cautious. More calls came in to the hotline, A.C.S. filed for more removals, and judges were more likely to grant them. What in normal times seemed like a small, ordinary mistake—forgetting to take a child to a doctor’s appointment, bringing him to school late, getting drunk in his presence—could, in the wake of a death, seem like a portent of danger. And you never saw headlines accusing caseworkers of removing children when they didn’t have to. Last October, the month after six-year-old Zymere Perkins died, allegedly at the hands of his mother and her boyfriend, foster-care placements increased by thirty per cent. Newspaper accounts of child deaths often suggested that A.C.S. workers had too many cases to do their jobs properly, but caseloads had been reduced over the years to a reasonable number—usually between eight and fifteen. It wasn’t that
caseworkers had too many clients, but that what they were required to do—change human behavior, predict the future—was very hard.

With so many serious and intractable issues to deal with in family court, the Bronx Defenders found it particularly infuriating when A.C.S. would argue for removal based on something they felt was relatively trivial, like marijuana. “I remember one case where I was struggling with whether I was going to make a finding of neglect,” Ronald Richter, who was a family-court judge from 2009 to 2011, before serving as the A.C.S. commissioner, says. “The mother was smoking marijuana in the shelter bathroom while her baby was on the bed in the next-door room, and I just didn’t feel that the agency had proved harm to the child. The record was so spare. There was nothing to show that this mother—they wanted me to make all these inferences! And I struggled and struggled and struggled. Then the mother didn’t show up to court, and her lawyer had nothing to say, so I was able to draw a negative inference and I made a finding and I was so relieved that that settled it.”

It had become rare for a child to be removed solely because the parent was smoking marijuana, but if kids had already been removed and the parent tested positive it was often a reason not to give them back. This seemed to Mendenhall so grossly unreasonable that she would sometimes lash out at the A.C.S. lawyers in the hallway afterward. “Never say ‘marijuana’ again in this courthouse until you call the police on your friend from college who dares to smoke it when he has children at home,” she fumes. “One guy said to me, ‘My own friends’ and family’s marijuana use is neither here nor there.’ And I said, ‘How can that be? How can it be? If you really believe in what you’re saying.’”

It was this double standard that galled her the most. Blaming parents for the side effects of poverty was bad enough, but to censure them for doing what middle-class people did all the time without any fear of prosecution was too much. There was no leeway, no give, no mercy at all, if you were poor. “I’m not in favor of corporal punishment,” she says. “I don’t plan to hit my children, if I ever have them. I assume I will at some point, though, because that’s how I was raised. I will be shocked at myself, and I will have the comfort
and the privilege within my family of processing how I failed, and saying to my child, ‘I lost it, I’m really sorry.’ Our clients never have that privilege.”

She knew that A.C.S. lawyers and caseworkers had jobs to do, and that those jobs were necessary to protect children. But there was a certain personality type that inclined toward that kind of work. “One of the A.C.S. lawyers, a couple years ago I saw her on the train, and I had a dog at the time. My dog was sixteen and I kept her alive till she was seventeen—doing O.K. First thing that lawyer did was stick her finger in my dog’s collar and say, ‘It’s a little tight, Ms. Mendenhall.’ ”

Because A.C.S. continued to complain in court about Mercedes’s marijuana use, and because she hoped that a dramatic demonstration of compliance and sacrifice might convince them that she was determined to reform, in 2012 she enrolled in a yearlong in-patient drug-treatment program called La Casita. At first, it was hard. “I didn’t have no phone,” she says. “You got to get rid of everything—no nails, no hair, no makeup, nothing, you’re in there Plain Jane. I didn’t really understand the logic of why you got to take my weave out, or why I can’t wear earrings. I cried about my hair. They said, ‘To strip you down to nothing and build you back up.’ But you already feel like shit because your kids are in the system. Why would you want me to feel like nothing? I already feel like nothing.” She couldn’t believe she was there in the first place—she looked around and saw dope fiends and crackheads, and all she’d done was smoke some pot.

But then she grew close to a couple of the counsellors; she felt they understood her and gave her good advice. They believed in her and thought she should get her children back. Little by little, she started to unfurl. “Like most women that enter treatment, she didn’t trust, she came from a broken home, she was always fighting,” Yolanda Stevenson, one of the counsellors, says. “She was angry at herself, and at the system. I also think that she suffered from some form of depression, which was taboo for her. For a lot of African-Americans, we feel it’s taboo—we’re not crazy, why should we have therapy? But when
Judge Sherman saw how hard she was trying, and how far she’d come, and said that the kids could visit her on weekends. She said that soon they’d be able to come for overnight visits, so La Casita moved Mercedes to a bigger room, with enough beds for all the kids to sleep there. Tiana was being fed through a tube into her stomach now, and Mercedes studied up on it so she would know how to take care of her. “I knew how to flush it, I knew how to mix it, I knew how to put the milk and cereal together and put the tube in and everything,” she says. Mendenhall argued that the only remaining barrier to reuniting the family was housing, and Sherman charged the foster-care agency with arranging it. The agency resisted—it believed that the children should be adopted by their foster mother—but she ordered it to comply. Now it was only a matter of finding an apartment: after three and a half years, it would be just a few more months before the family could be together.

That year—2013—Mercedes brought her kids to Thanksgiving dinner at her aunt’s house. “Thanksgiving was beautiful,” she says. “My aunt and my grandfather hadn’t seen Leslie, Camron, and Tiana since they were babies. We ate, we laughed, we talked. My aunt has one of them big dummies with no arms that they have in defense classes, and Camron was fighting that—they put boxing gloves on him and he went at it and had a ball. He was play-wrestling with my brother. Tiana, she was playing with toys with my cousin. Leslie was eating, talking to my mother, talking to my aunt.”

Then, two days later, the agency told Mercedes that Camron had said that during the Thanksgiving dinner she had taken him into the bathroom and punched him in the stomach while her mother held his shirt up. More accusations followed: Leslie said that she had been abused, sexually and otherwise, by Mercedes and other people in her family. Later, Camron admitted to Mercedes and a caseworker at La Casita that the punching at
Thanksgiving hadn’t happened, that his foster mother had told him to say that, and the caseworker recorded his statement, but the foster-care agency said the statement sounded coerced.

A.C.S. investigated each of these reports but pursued none of them in court. But as soon as one was closed another accusation would be made, and no reunion could take place before the new report was properly looked into. It seemed that nobody really believed that Mercedes had abused her children, because she was never arrested, and during this period she gave birth to a fourth child, Amaya, and Amaya was never taken away. But the reports continued. “I wish I could have helped Mercedes fight more, the way she was treated by the foster-care agency and the foster mother,” Yolanda Stevenson says. “I’ve been in this field for twenty-three years, and I get that her children were traumatized. But I think her kids were coached by the foster mother to say these things—‘Mommy beat me,’ or whatever.” Leslie started saying she’d been hit by any number of people in addition to her mother—by children on the school bus, by a teacher, by a teaching assistant in a school bathroom, by her foster parents. Sherman stopped the children’s unsupervised visits at La Casita, so Mercedes saw them at the foster-care agency again. But the foster mother reported that Mercedes sexually abused the children during those supervised visits.

Reports started coming in against the foster mother and her husband, too. There were several calls to the hotline from mandated reporters—people, such as teachers and social workers, who were obligated to report suspected abuse—accusing her or her husband of mistreating the children. “There were allegations of her hitting the son,” Stevenson says, “but they didn’t remove the kids, which blew my mind.” At first, Sherman didn’t hear of the accusations against the foster mother, because the foster agency didn’t mention them in court, and they were all ultimately deemed unfounded. When Sherman did hear, she berated the agency for not telling her sooner, but she decided that since it still seemed likely that the children would be reunited with their mother, they should not be moved to yet another home.
Even the agency was worried about what was going on. The agency itself had called in one of the maltreatment cases against the foster mother; it was concerned about her habit of filming the children when they were having tantrums. It also felt that her husband was not behaving enough like a father. When the caseworker visited, he would be in another room. She would tell him he had to come out and engage with the kids, especially since they wanted to adopt them, but he would say, “My wife does that.” The agency testified in court that there were incidents where the foster mother and her husband were very harsh with the children.

Mercedes had started missing visits again and turning up late, and after several warnings Judge Sherman became so concerned about the traumatizing effect her behavior was having on the children that she cancelled visits altogether. Mercedes was so far gone in despair by that point that she almost gave up. “They already made up in their mind that they’re not going to give them back,” she says. “I feel as though they want me to say, ‘Fuck it, let me just sign, take ’em.’ I get to that point. I get there. That’s why I’ve been late. I can be on time; but when I’m at home getting ready, I don’t see an end to this tunnel, I don’t see a light, it’s just pitch black, this is a fricking routine that is never going to fucking end, and I feel like I’m drowning all the time. Lord knows, I love my kids. But, at the end of the day, it’s only so much one person is willing to take.” She started crying. “I’ve dealt with everything. Everything they threw at me, I dealt with. After I busted my ass to make sure I got where I needed to be, they just snatched it back like it was nothing.”

The children grew worse and worse. Camron threatened to kill his foster mother and her husband, and the month after the Thanksgiving dinner, when he was six, he ended up in a psychiatric hospital. Later on, he started threatening to kill himself, too, and he was hospitalized again and again. When Camron was nine and in a psychiatric ward, his foster mother took the girls and went on a vacation that she had planned, so he was all alone. In previous years, Sherman had seemed to agree with the foster-care agency that Camron’s frightening behavior might be due to anxiety surrounding the visits
with his mother, but now he hadn’t seen his mother in more than a year and he was far sicker, and she was growing skeptical that Mercedes could still be blamed for what was happening. Since she wasn’t allowed to visit Camron in the hospital, Mercedes called him on the phone the first day he was there, and he asked her to call him every day. She called the next day, and the next, but then the foster-care agency told the hospital that she was not allowed to have contact and her calls were blocked.

Camron reminded Mercedes of herself—he was angry and difficult, and she knew he was going to have a rough adolescence, as she’d had. “What I kept telling their foster mother is ‘You forget those are my kids,’ ” she says. “ ‘My blood is running through them. My attitude is running through them. I gave my mother hell. You ain’t never been through no shit like that, so you ain’t going to understand, you’re not going to get it. I will get it, because I been there. These are my kids.’ ” It seemed to Mercedes that the foster mother didn’t really want Camron—what kind of mother left a nine-year-old alone in a mental hospital and went on vacation? “I felt the foster mother treated the daughters better than the son,” Stevenson says. “When the kids would come to visit, you could tell he needed a haircut, his clothes were shabby, he didn’t smell the cleanest, so nobody was teaching him hygiene, but the girls looked like fashion models.” At one point, Mercedes wondered whether she could make a devil’s bargain with A.C.S. to give up Leslie and Tiana if they’d give her Camron—she thought that the foster mother seemed genuinely attached to the girls—but she just couldn’t do it.

By the spring of 2017, Mercedes hadn’t seen her children in nearly two years. She was living with Amaya in a shelter in Manhattan, near the F.D.R. Drive. “So much time has gone past, I don’t even know what my kids look like right now,” she said. “I look at them old pictures, I know Camron looks older. He’s taller. I know Leslie looks older and she’s taller. I don’t know what they look like.” The foster-care agency was advocating strenuously for adoption. The point of no return was getting closer.
The agency asked the court to place Camron in a long-term residential treatment facility. Mercedes went there and asked for a tour, and she emerged feeling it wasn’t as bad as she’d feared. When the foster agency gave her a stack of medication-consent forms to sign, she first Googled each of the drugs they wanted to give him. There were four or five of them, and she looked up the side effects, the tics he might develop if he missed a dose, the withdrawal symptoms he would go through if he stopped taking them. Some of the antipsychotics sounded scary to her, especially for a kid as young as Camron. “They want to put him on Risperdal—I won’t let them do that. That give boys breasts. Abilify? That’s fine, it calms you. They wanted to do the Ritalin for the A.D.H.D. Fine. The closer I can get to the organic stuff, I try to. I’ve seen him in the hospital after he’s woken up after they give him the shot to calm him down, and I don’t like what I see. He’s not responsive quick enough for me. He just sit there, his mouth open. He’s talking, but it’s like the lights is on but nobody’s home. And I’m, like, no. Unh-unh. No.”

For Mercedes, spring was the hardest time of year, because of birthdays. Camron’s was March 21st, Tiana’s March 30th, Leslie’s May 5th. Each year, she braced herself for this dark period by going all out for Amaya’s birthday, in January. She would spend her food stamps on a birthday cake and they would celebrate together. “Your birthday is special,” she would tell her. “That’s the day you changed me. That’s the day you made me feel like I need to be here. Because I didn’t feel like I needed to be here for a long time. They always made me feel like my kids never needed me, they didn’t want me, they was better off with this lady. I just lost the will to live. It was like, whatever happened to me happened to me, I’m on the streets until whatever. But, when I saw Amaya, that was my purpose—to make sure she didn’t go into care. I made sure that that baby stayed with me, and I’m going to continue to make sure that my baby stay with me. I refuse to lose her. I fucking refuse to. They will have to kill me.”

“The reckless destruction of American families in pursuit of the goal of protecting children is as serious a problem as the failure to protect
children,” Martin Guggenheim, Sherman’s former colleague, says. “We need to understand that destroying the parent-child relationship is among the highest forms of state violence. It should be cabined and guarded like a nuclear weapon. You use it when you must.” He believes the tide is turning in his direction—nine thousand children in foster care in New York City compared with fifty thousand, changing views on drugs—but each time a child is murdered by a parent some gain is lost. After the death of Zymere Perkins, last year, Mayor de Blasio spoke on the radio about the case. “Our mission is to save every child,” he said. “Unlike pretty much any other area in government—we do not set a standard for perfection in policing or so many other areas—in this case we do set a standard of perfection.” He said, “Our job is to get there first and intervene and stop it.”

In Dostoyevsky’s novel “The Brothers Karamazov,” Ivan asks his brother Alyosha to consider the murder of a child and what price he would pay to avert it.

“Imagine that you are creating a fabric of human destiny with the object of making men happy in the end, giving them peace and rest at last, but that it was essential and inevitable to torture to death only one tiny creature—that baby beating its breast with its fist, for instance—and to found that edifice on its unavenged tears, would you consent to be the architect on those conditions? Tell me, and tell the truth.”

“No, I wouldn’t consent,” said Alyosha softly.
Children are killed all the time. But when confronted with one particular dead child and asked if there is no limit to what we should do to prevent another from dying like that—if perfection should be the goal of child-protective services, and if the state should intervene before bad things happen, just in case—it is very difficult to say no, even if the price is other children and parents suffering while alive.

Mercedes knows that, at this point, she has very little chance of getting her kids back. She knows that they will probably grow up without her, and that she may not even be allowed to see them. The foster mother and Mercedes’s mother aren’t friends anymore. The photographs she has will get more and more out of date, and Camron, Leslie, and Tiana will become people she doesn’t know. What she hopes for now is that when they’re grown, when they’re adults and can do as they like, one day they will come and find her. “I will always be looking for that phone call, for that hit up on Facebook: ‘Mommy, what happened?’” she says. It will be years till then, but it’s been years already, and she’ll survive as long as she has Amaya. “I’m waiting for it,” she says. “I got time. Camron, that’s eight more years till he’s eighteen. Leslie is, what, nine more years. Tiana is six now. So I’m waiting for it. I’m waiting for it.”

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This article appears in the print edition of the August 7 & 14, 2017, issue, with the headline “The Separation.”

Larissa MacFarquhar, a staff writer and the author of “Strangers Drowning,” is an Emerson Fellow at New America. Read more »
Video

The Youngest Elected Official in New York City

Ritchie Torres, who is twenty-eight years old, represents the Central Bronx in the New York City Council. His mantra is “If you do nothing, nothing will change.”
The language of family finding is evolving in response to years of learning from practice and research. The family finding name itself came from these central questions:

- Is it true this child has no one?
- Is it true this child has no father?
- Is it true this parent has no one who will help today or tomorrow?

Multiple studies and experience in the United States, Canada and Australia have provided clear answers. Every child has, or can have, someone who cares deeply about them. Every human being has or had a father, and every parent has or had adults with whom they can build supportive relationships.

We have learned to ask critical questions that aim at human truth rather than exclusionary beliefs. Who loves this person? Who might love this person? Who could learn to love this person? In asking these questions, we seek to find the people who will circle around the child and become the Family Finding network for safety and healing.

The potential of the family finding process runs up against the common public perception, rooted in outdated philosophies, that the child welfare system is primarily focused on foster care and adoption. Our system is, in fact, a child protection system that leaves most children safely at home after an investigation.

Nearly half of all children who are removed are now returned to a parent, and those who cannot be safely restored to first parents are most often placed permanently with relatives or others closely connected to the family.

This reflects our growing recognition of the intrinsic value and dignity of family, culture and community in every person’s life.

But there remains a tension in many child welfare systems between a stronger connection with family and the outdated framework of removal and placement with strangers, or the use of outside services to promote behavioral change (or to prove it is not likely).

In the U.S., this mission conflict is a serious challenge that stands in the way of our moving from a system designed to rescue and protect children from their families to a system focused on the stability and protection of children in their families. The need for this shift has greater urgency due to the opioid crisis and other problems associated with economic disparities.
Of greatest concern in the misalignment between what our child welfare system used to be and what it aspires to be now is the effect of this disconnect on the actual practice of child protection. ‘Casework as usual’ practice and decision-making continue in many places to be the default that children, parents and families experience as caseloads and investigation levels increase.

It is critical that child protection leaders and policymakers lead from their positions to close the gap between the evolving new vision and the outdated legacy perspectives. To advance our practice toward safety and healing we must reckon with our past and embrace a new way of seeing and doing.

As we seek to understand the children and families we serve we can embrace new language that reflects openness and inclusion rather than judgment and control. Our family finding approach endorses a framework built on three concepts: family seeing, justice doing and dignity giving.

In envisioning our future, what would our practice look like, and how would relationships and experiences change, if we were to abandon approaches that separate and make small the people for whom these systems exist? What untapped potential could be unlocked if we saw restoring humanity to our work as critical to the safety and healing of all involved?

Our view of the foster care crisis highlights challenge and opportunity. We have seen that separating children from their families and moving them from ‘bad’ parents and relatives to ‘better’ foster and adoptive homes further harms the children we are charged with protecting. We serve these children better when we help them build protective relationships with relatives and others offering unconditional love with safety and healing.

Lasting results can be achieved by partnering with families and empowering them to provide their own solutions so their children can safely stay in their families. By working with families, rather than against them, we affirm the dignity and humanity of us all and we join together to protect our most vulnerable children.

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