The unmet legal needs of poor children have serious health consequences. Poor children experience a double jeopardy when it comes to their health. They are frequently exposed to health and developmental risks, such as malnutrition and family stress. They also suffer more serious consequences as a result of this exposure, such as developmental delays, than their more advantaged peers.

To address this double jeopardy, Barry Zucker- man, Chair of the Department of Pediatrics and Professor at Boston University School of Medicine, established the Family Advocacy Program (FAP) in 1993 at Boston Medical Center. FAP was born out of health providers’ frustration with the inability of routine, preventative medical care to address poverty’s impact on children’s health. The Family Advocacy Program was created to help clinicians improve their patients’ health through legal advocacy and system reform. The Boston Medical Center attorneys represent individual families, train health care staff, and work on policy issues such as improving mental health care for children. This program’s success has prompted several other cities to adopt a similar approach.

Boston Medical Center is the largest provider of free health care services in Massachusetts and its patients are mostly from urban areas. The hospital serves the Greater Boston neighborhoods which have the highest indicators of distress: poverty, unemployment, crowded living conditions, inadequate prenatal care, incidence of asthma, and low birth weight.

FAP started with one attorney who represented families seen at the hospital pediatric outpatient clinic, specialty clinics, emergency room, and pediatric wards. Private foundations funded his position. Now the program consists of three attorneys and approximately five year-round interns. The attorneys work in the hospital but have expanded their scope to neighborhood health centers in the area. The City of Boston and private funders including IOLTA funding from the Boston and Massachusetts Bar Foundations support the work of the program.

(continued on page 4)
In the fall of 1997, Jose, an unaccompanied minor, fled to the United States to escape gang persecution in his native Honduras, leaving behind his family and friends. He was immediately detained at the U.S. border and sent to the Southwest Key Detention Center in El Paso. Although Jose’s claim did not fall under the existing legal precedents of political asylum law, Jose wanted to seek asylum and claim gang persecution as a basis for his claim. Unfortunately, Jose has been kept in detention while awaiting INS proceedings and has no right or access to legal counsel.

Lorenzo had been living on the streets since he was nine years old. Lorenzo’s mother died of cancer and his alcoholic father forced him into the streets to beg for money, which he was then to turn over. One day Lorenzo decided not to return to his father and from that day forward he was on his own. His parents were both from Mexico and he was born in Ciudad Juarez, Mexico, a city of one million people that borders El Paso, Texas. While living on the streets, Lorenzo crossed back and forth between Mexico and the United States for months. On several occasions he was placed in an orphanage in Mexico, but he always managed to escape.

Eventually Lorenzo hooked up with two men who promised him a bicycle, a job, food, shelter and money. All he had to do was participate in the porn films the two men produced and distributed in Texas, Oklahoma and Washington. Although the men he lived with were often cruel to him, Lorenzo stayed because it was the closest thing to a home he could remember. The porno scheme was finally discovered and Lorenzo found himself in the juvenile detention center, not charged with a crime but held solely as a material witness, where he was held for six months. Lorenzo knew he wanted to remain in the United States and was clear that he did not want to be returned either to a Mexican orphanage or to his father—whose whereabouts were now unknown. Lorenzo was lucky to be among the few unaccompanied minors to receive an attorney, and with her help, Lorenzo became a legal permanent resident of the U.S. and was placed into a foster home. He is presently attending college.

These and many other cases illustrate the unique needs of children in immigration proceedings which received little or no attention until recently. In many cases these children are seeking reunification with family members here in the U.S. The Children’s Law Committee has formed several subcommittees, one specifically to address the issues of children and immigration. The dilemmas facing children who are in the country without legal status, who have no responsible and safe home if they are returned to their country, and who may have no idea of potential deadlines for remedies that may be available to them, are staggering.

And then there is the child who travels hundreds of miles to escape the terrors of his or her country only to be detained, often in adult facilities, or in facilities surrounded by walls and barbed wire, strip searched, patted down, forced to wear prison uniforms, and forbidden to keep personal objects. These children often have no one around who speaks their language and no access to legal counsel.

The immigration subcommittee will have the opportunity to design, develop and disseminate programs, materials and technical assistance that will address these complex issues. More importantly, the immigration subcommittee will have the opportunity to support legal communities who want to improve the system and protect the rights of our most vulnerable population.

If you are interested in joining us as we endeavor to take on these critical challenges for the benefit of children, please join the immigration subcommittee by filling out the form on page 7.

Linda Chew is a staff attorney at Advocacy, Inc. in El Paso, TX and she volunteers as the legal services director for the Children’s Justice Center. Linda serves as the chair of the immigration subcommittee.
Since 1993, FAP has served over 1,500 patients and provided over 200 trainings to more than 1,500 health care clinicians and community members. Legal issues that FAP addresses include special education, government benefits, access to health care, family law, immigration, and housing. FAP also addresses systemic barriers to child health through joint efforts with the medical clinicians. Legal service agencies from the Boston area support the program through mentoring, providing access to research materials, and providing back-up support on legal issues. Since the attorneys do not specialize, legal services provide specialized assistance on complex cases. Referrals come from the health clinicians and cases are chosen based on the effect intervention would have on the health of the child or because of the nature of the case uniquely depends on medical information. Typical cases involve appealing denials of food stamps or welfare benefits, or using a landlord over poor housing conditions.

Several benefits of the medical/legal collaboration have emerged:

- **FAP is provided timely, comprehensive medical information by pediatric clinicians:** This enables an interdisciplinary presentation of legal cases, frequently at a pre-hearing stage. If necessary, clinicians accompany the attorney to hearings to shed light on the child’s medical condition. Thus, adjudicators make sound decisions based on complete medical information.
- **As clinicians become more sophisticated about the rights of children and families, they can spot legal issues before they become court involved.** FAP is able to resolve many cases proactively before requiring an intensive use of resources. For example, a special education training, BMC pediatricians identified illegal time delays in the special education system. Working with FAP, they flagged any child who was not receiving special education services after a referral for an evaluation. For those children, FAP intervened quickly, through phone calls and complaint resolution, and got them services. These children did not have to wait several years, until they failed a grade, to be noticed by the system, and FAP did not have to file for a hearing to get intensive services for the child after a year or more of neglect.
- **The interaction between the legal and medical communities helps identify significant issues that otherwise might be overlooked by the legal and medical communities.** For instance, through collaboration with the hospital’s Pediatric Pulmonary Division, FAP discovered the link between poor housing conditions and childhood asthma. FAP has started an initiative to address this problem by co-founding a Boston Urban Asthma Coalition and working to improve housing conditions city-wide.
- **As stated above, fostering a more formal relationship with the local hospital or health center can reap many benefits.** Legal programs and firms should consider working with their area hospital or health center.

**GETTING STARTED**

If you are considering such a collaboration, take the following steps to get the relationship off to a good start:

1. **Tailor the collaboration to the individual needs of the community, health clinicians, and legal agencies.** Many issues must be resolved such as:
   - Where to base the project. As the saying goes “out of sight, out of mind.” It is best to base the attorney in the hospital. A unique aspect of this model lies in the ability of the lawyers and clinicians to form relationships. The physical presence of the attorney in the hospital can make a difference for getting referrals, understanding the medical culture, and spotting systemic barriers to good child health.
   - In addition, locating the program in the hospital saves the family time and stress. Instead of making the family come to the lawyer, the lawyer comes to them. Most low-income families must take public transportation and cannot afford babysitters. Travelling with a child, especially a sick child, or a number of children is stressful.

Through this model, the family is able to get all their needs met in one place. One problem with this location is the attorney may feel isolated. Therefore, it is important for the attorney to meet regularly with legal services, attend coalition meetings, and participate in other legal forums.

**What type of cases to take.** If the mission of the project is to improve children’s health, then the program will need to practice in many legal areas. The laws on public benefits, education, family law, housing, and immigration impact poor children’s health. Therefore, the project attorney should be a generalist, just as a primary care pediatrician generally understands many childhood diseases.

### The unmet legal needs of poor children have serious health consequences.

Looking for Articles for the Children’s Law Committee Newsletter

**Guidelines for Articles**

1. Articles should focus on any issue of interest to the children’s law community, for example a description of a pro bono children’s law program or a discussion of a substantive children’s law issue.
2. Articles should be no longer than 2,500 words.
3. Articles should be submitted to Catherine Krebs at the address below, preferably in Microsoft Word, either on disk or by e-mail.
4. Please include a brief biography of the author to include at the end of the article.
5. The editor reserves the right to edit for length and clarity.

Please call or write to Catherine Krebs, Newsletter Editor, with any ideas or questions regarding submissions.

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Medical Collaborations (con’t from page 4)

Legal services can provide the specialized information and support.

How to structure the project.
FAP attorneys are employees of the hospital. However, the local legal service agency could employ the attorney and place her in the hospital.

What services to deliver.
The three-prong approach of case representation, training, and policy, allows the program to expand its services and leverage existing resources (through training) and impact more children (through policy). If the project just provided legal representation, it might miss the opportunity to empower the clinicians to advocate for their patients and effect change on a broader level.

How to get referrals.
Clinicians are often the first to hear of problems. In polls conducted in Boston, clinicians were one of the top professional groups trusted by parents. Therefore, a good referral source is the clinicians. Once the program is established, families will hear of the program through word of mouth.

How to get funding.
FAP does not charge for its services, so outside funding sources are necessary. FAP is funded through private foundations, government support, and Bar Association foundations. Projects also may want to consider using legal services funding. Unfortunately, this funding comes with many restrictions, such as prohibiting program attorneys from representing certain immigrant groups and from filing class action litigation. Other creative funding sources include managed care organizations, hospitals, health foundations, and law firms.

Confidentiality, malpractice insurance, supervision, and case referrals. While FAP works in the hospital, it is careful to ensure confidentiality laws are met. Clients must sign releases before an attorney can speak to hospital staff about their case. In addition, FAP will not call a family without their permission. Therefore, for referrals, the clinician must either give the family FAP’s phone number or get permission to release their name and number.

If the attorneys become hospital employees, they should still have their own legal malpractice insurance. Several insurance programs offer discounts for nonprofit or legal services agencies.

Lastly, the project may want to set up a referral system to other agencies to help with overflow cases. In some instances, FAP is able to refer directly to an attorney instead of making the client go through another lengthy intake process.

2. Get acquainted with the medical institution before plunging into a project.

When FAP started, the new attorney simply shadowed the hospital pediatricians for several weeks, and administered a brief survey to patients about their unmet legal needs. This exercise allowed the attorney to understand the medical environment and patient needs in a way that a simple lunch conversation never could. By shadowing a medical clinician, the important differences between the legal and medical model become more apparent.

3. Allow case priorities to develop over time.

A flexible program responds to issues as they arise in the medical setting. Practically, an open referral system may create more work for the attorney, but this flexibility allows for the identification of unaddressed legal issues.

Conclusion

The Family Advocacy Program offers a new model to improve children’s health and to reframe the delivery of legal services to low-income children in a more effective way. Its location in the hospital, close collaboration with medical professionals, and its generalist approach distinguishes it from traditional legal services. This integration of medical and legal work holds many exciting possibilities for the health of poor children. The challenge for the future is to institutionalize this model. More secure funding is necessary to make it a permanent fixture. In addition, other urban areas can adopt this approach to broaden the impact on child’s health to a national level.

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