POLICY REFORMS TO VALUE FAMILY AND COMMUNITY THROUGH PREVENTION STRATEGIES

Eliminating the racial disproportionality and disparities in child welfare must begin long before a maltreatment allegation is made. Far too many low-income families of color come to the attention of child welfare agencies because of their socioeconomic status and through their interactions with social service providers. While in recent decades the social safety net in the United States has contracted dramatically, deepening inequalities during the COVID-19 pandemic have spurred federal and state policymakers to increase investments in programs for struggling families. Therefore, this historic moment presents an opportunity for child welfare agencies to capitalize on both existing and new resources to ensure that the families they serve have their basic needs met in terms of housing, food, healthcare, childcare, and other vital resources. When engaging with families, agencies should aim first and foremost to avoid separating a child and parent. This can be accomplished by preventing maltreatment through services that strengthen families' protective factors; providing responsive and trauma-informed crisis intervention; and bolstering legal safeguards against unnecessary removals.

PROPOSED REFORMS

1 Expand primary prevention services to support families before maltreatment occurs.

The Problem: Funding is limited for programs and services that would help prevent neglect and abuse (primary prevention services), as well as services to prevent unnecessary removals after maltreatment has occurred (secondary or tertiary prevention services). The federal Family First Prevention Services Act (FFPSA) was designed to provide certain prevention services to support the care of children living with parents or relatives. While FFPSA offers important opportunity to provide services, there are restrictions that limit which services are available and who can receive the services.[1] FFPSA only funds mental health and substance abuse prevention and treatment and in-home parent skill-based services that meet specific evidentiary criteria. Programs and services that directly assist with housing, education, employment, and other issues facing low-income families, or promising programs that do not meet the evidentiary criteria, are not eligible for federal funding under FFPSA. Other programs outside of child welfare that can provide these direct supports are not well integrated with child welfare agencies, meaning that the scope of services that a family receives may depend upon which agency's door they walk through first.

Solutions:

- Expand the definition of a "candidate for foster care" to include children who may not be at imminent risk of entering foster care but may nonetheless want and need services to stabilize the family and reduce the risk of maltreatment.
- Expand prevention funding to account for programs that do not meet current scientific standards but have been implemented at the local level, align with community practices and values, and are culturally competent.
- Authorize and fund trusted community-based organizations to provide prevention services so that families can focus on healing and thriving without the constant presence of a child welfare agency representing the looming threat of separation.
- Prevent intergenerational child welfare system involvement by ensuring that expectant and parenting youth in foster care, who are categorically eligible to receive FFPSA prevention services without a finding of risk or candidacy, are aware of and have access to the full array of approved prevention services.
- Improve interagency coordination between public agencies and pilot "no wrong door" models so that families can access the same array of healthcare, employment, food, and housing services regardless of where they make system contact.

2 Give families in crisis the option to seek help from behavioral health specialists.

The Problem: Low-income families of color, particularly those impacted by the child welfare system, experience numerous stressors that affect their health and wellbeing (e.g., intergenerational trauma, poverty, systemic racism, and family and community violence). The cumulative weight of these challenges can lead to family conflicts, mental health crises, and other situations that may warrant outside intervention. Frequently, however, law enforcement is the first and only response available to families in crisis. For overpoliced and overincarcerated communities, police intervention in non-life-threatening situations can be triggering, traumatizing, and dangerous, and can also lead to criminal justice and child welfare system involvement.

Solution:

- Develop a culturally-informed crisis response system staffed by behavioral health specialists with training in deescalation, conflict resolution, and trauma-informed care. The Family Urgent Response System (FURS) launched in 2021 is just such a model, but it is exclusively available to current and former foster youth and their caregivers. A

[1] To be eligible for federally funded services, children must be: (a) "candidates for foster care," defined as a child "who is identified in a prevention plan … as being at imminent risk of entering foster care … but who can remain safely in the child's home or in a kinship placement as long as services or programs … that are necessary to prevent the entry of the child into foster care are provided," or (b) expectant or parenting youth in foster care and their children.

universally available hotline—similar to New Jersey's Mobile Response and Stabilization Services intervention[2]—would allow youth and families to seek support and services before the point when child welfare caseworkers would typically intervene.

3 Limit removals on the basis of "neglect."

The Problem: Under Welfare and Institutions Code section 300(b)(1), a child can become a dependent if the juvenile dependency court determines "the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of … negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment."[3] From 2016 to 2018, nearly 90 percent of first entries into care in California occurred under this statutory definition of "neglect."[4] A significant number of these cases involved families living in poverty, as demonstrated by decades of research linking low socioeconomic status and child welfare system involvement.[5] Given both the disproportionate impact of poverty on communities of color[6] and the trauma accompanying family separation, child welfare agencies should prioritize strategies that support—rather than punish— parents who are struggling to meet their children's basic needs. As former Children's Bureau officials Jerry Milner and David Kelly wrote in a 2020 article for The Imprint, "poverty is a risk factor for neglect, but poverty does not equate to neglect." When the system confuses poverty with neglect, it traumatizes marginalized families and misses out on opportunities to provide much-needed support with housing, employment, healthcare, and other areas.

Solution:

- Raise the legal standard for finding dependency court jurisdiction based on "neglect" by revising the statute so that (1) the court must find that a parent failed to meet their child's basic needs willfully or with an intent to harm and (2) case workers must provide evidence that intensive in-home services would not remedy the cause of the allegation.
- Ensure that the legal standard for "neglect" reflects current evidence-based approaches to domestic violence, substance abuse, mental health, homelessness, and other symptoms of poverty that do not necessarily result in child abuse or neglect.

4 Implement a "blind removal" process.

The Problem: Research shows that families of color are more likely than their White peers to experience child welfare investigations, substantiated maltreatment allegations, and out-of-home placements, among other disparate outcomes. For example, a 2008 study by Rivaux et al. "found that Black children were 77 percent more likely than White children to be removed from their homes following a substantiated maltreatment investigation, even after controlling for factors such as poverty and related risks." This finding indicates practitioner bias at a critical juncture in the child welfare process—when agency staff are deciding whether to separate a child and parent.

Solution:

- Pilot a "blind removal" strategy, which has been shown to reduce the impact of practitioner bias. This process removes all identifying information (e.g., race, name, address) from the investigating caseworker's report before a committee of child welfare professionals makes a recommendation regarding whether a child should be placed in out-of-home care.[7] Further evaluation is needed to confirm the effects of blind removal on racial disparities in out-of-home placements, so any blind removal pilot should be implemented with a rigorous evaluation plan. Nevertheless, according to anecdotal reports, involving a committee of experienced staff in removal decisions increases the likelihood that child welfare agencies will identify opportunities to provide in-home interventions and refer families to community-based resources.

5 Incorporate antiracism into mandatory reporting laws, policies, and practices.

The Problem: California's mandatory reporting laws compel adults working in a wide range of fields—education, healthcare, law enforcement, youth recreation, and more—to report suspicions of child abuse or neglect to the state under penalty of a fine and possible jail time. While aimed at protecting children, these laws heighten the surveillance of low-income families of color and encourage mandated reporters to err on the side of caution without considering the racially disparate impacts of child welfare investigations. To illustrate the scope of this issue, again, a recent study examining a cohort of children born in California in 1999 revealed that 46.8 percent of Black children and 50.2 percent of Native American children experienced maltreatment investigations before the age of 18.[8]

Solutions:

- Require that all training for mandated reporters include information about the racial disproportionality and disparities in child welfare and the potential consequences faced by children and families who experience investigations, removals, and other aspects of the child welfare process.
- Within public-serving systems responsible for a significant percentage of maltreatment reports (e.g., education and healthcare), develop guidelines for

[2] Since New Jersey began implementing its Mobile Response and Stabilization Services intervention in 2004, the program "has consistently maintained 94 percent of children in their living situation at the time of service, including children who are involved with the child welfare system."
[3] CA Welf & Inst Code § 300 (amended 2015).
[4] Kidsdata, "First Entries into Foster Care, by Reason for Removal."
[5] According to an article published by First Focus on Children, "data compiled by the Third National Incidence Study of Child Abuse and Neglect indicate that children from families with annual incomes below $15,000 were over 22 times more likely to experience maltreatment than children from families whose income exceeded $30,000."
[6] As reported by the Children's Defense Fund, the poverty rates for Black (30.1 percent), Native American (29.1 percent), and Hispanic (23.7 percent) children are multiple times the rate for White children (8.9 percent).
[7] When Nassau County, New York, began implementing blind removals in 2011, Black children comprised 55 percent of children removed from their homes; that number had dropped to 27 percent by 2015.
[8] Putnam-Hornstein et al., "Cumulative Rates of Child Protection Involvement.

teachers, health providers, and other professionals on referring families to community-based resources and other alternatives to making a child welfare report.

6 Increase understanding of the socio-cultural dynamics of domestic violence.

The Problem: According to a 2021 report by the Pritzker Center for Strengthening Children and Families, more than half of child welfare cases in Los Angeles County involve allegations of domestic violence (DV).[9] Given their frequent interactions with public-serving systems and the lack of prevention and intervention resources, low-income families of color experiencing DV are at particularly high risk of child welfare involvement. Nevertheless, child welfare staff may fail to consider the intersecting issues of race, poverty, and DV when working to protect survivors and their children. For example, despite the limited shelter or housing options available to low-income mothers, survivors are often asked to either move out of the home they share with their perpetrator (with no alternate housing) or risk having their children placed in foster care.

Solution:

- Employ practitioners with DV expertise within county child welfare agencies. In San Francisco, the Department of Children, Youth, and Their Families has partnered with a community-based organization for survivors to employ a Domestic Violence Specialist who "can aid social workers in designing feasible safety plans for families, assigning relevant and helpful services, and encouraging the social workers and courts to use trauma-informed language in their official communications."[10]

[9] UCLA Pritzker Center on Strengthening Children and Families, "Child Welfare and Domestic Violence: The Report on Intersection and Action."
[10] Ibid, 13.

POLICY REFORMS TO ADDRESS THE POWER IMBALANCE BETWEEN FAMILIES AND THE CHILD WELFARE SYSTEM

Many families experience interactions with the child welfare system as adversarial, invasive, and disempowering. In some low-income communities of color, residents view child welfare workers as an extension of law enforcement, another government entity weighed down by a history and present day of harmful and discriminatory policies and practices. To begin to build trust and legitimacy with those communities disproportionately impacted by the system, child welfare agencies can take proactive steps to share power with parents, caregivers, and young people. These efforts would bolster due process protections; elevate child and family decision making; reduce uninformed or unintended consequences of placement decisions;[11] and expand advisory roles for people with previous system involvement.

PROPOSED REFORMS

1 Mandate pre-petition legal representation.

The Problem: Any interaction with the child welfare system can be intimidating and overwhelming. Parents and potential caregivers, especially those experiencing poverty who are not able to retain a private attorney, may be unaware of their legal rights during the investigation phase, as well as the various options available to them as they work to keep a child in the home or find a safe placement. As a result of decisions made without legal counsel, parents may see their children placed in out-of-home care indefinitely.

Solution:

- Make pre-petition legal representation available to all families who are under investigation by a child welfare agency. Pre-petition representation ensures the rights of parents and children are protected and helps parents understand the steps they can take to guarantee their children's health and safety and avoid the trauma of separation.[12] For pre-petition representation to be most effective, it should be provided by attorneys skilled in a variety of civil legal issues, including housing, benefits, and family and probate law.

2 Make child and family team (CFT) meetings family-centered and culturally competent.

The Problem: Although child and family team (CFT) meetings were designed to create a more youth- and family-centered case planning process, current practice does not match this vision. While policy encourages the use of independent facilitators for child and family team (CFT) meetings, it also permits child welfare social workers to serve as facilitators. Social workers cannot be neutral parties in the CFT since they make recommendations to the court about each case. Further, according to advocates, this stipulation allows social workers to hold CFT meetings according to their own schedules and to dictate the setting and structure of meetings. In some cases, social workers neglect to inform older youth that they can invite trusted adults to the meeting, which denies youth the opportunity to experience allyship in the case planning process.

Solutions:

- Recruit independent facilitators who reflect the backgrounds of the families most impacted by the child welfare system and develop policies that ensure that members of the child and family's community (including tribal representatives) are present at even the earliest CFT meetings.
- Develop revised policy and practice guidance to make CFT meetings more culturally competent.
- Develop outreach materials to help youth and families prepare for CFT meetings, including information on how to contact the Office of the Foster Care Ombudsperson.
- Authorize funding for counties to pilot innovative and family-centered CFT models.
- Conduct listening sessions, review county policies, and work with clients and impacted stakeholders to identify opportunities to reform CFT meetings locally and statewide.

[11] Including safety plans and the other informal care arrangements discussed in the next category of recommendations.

[12] According to Casey Family Programs, "evaluations of a collection of pilot [pre-petition] programs show promise, including nearly 100 percent prevention of foster care entries and cost savings of 2-to-1 when compared with the cost of foster care placement."

POLICY REFORMS TO EMPOWER THE FAMILY NETWORK AND CONNECT YOUTH TO THEIR COMMUNITY

In cases where it is necessary and appropriate to separate a child from their parents because of a threat of immediate harm to the child, child welfare agencies should take every affirmative step to maintain that child's connections to their own family and community—particularly for those groups most impacted by the child welfare system and most likely to experience placement far from their homes or with caregivers and providers who do not share their cultural background. These social bonds are critical for achieving permanency and reunification and healing from trauma. Further, families and communities have a right to make decisions about the care of their most vulnerable children. The procedures regarding voluntary placement agreements and resource family approval are particularly promising areas for reform.

PROPOSED REFORMS

1 Remove barriers preventing children from being immediately connected to their own family and extended family.

The Problem: Current laws governing resource family approval (RFA) exclude relatives and extended family members who are fit and willing to care for children removed from their parents' homes, and these exclusions are based on factors unrelated to the child's health and safety. Criminal background checks and judgments about placement capacity and income and resources are of particular concern. As the communities of color overrepresented in the criminal justice system are also those overrepresented in the child welfare system, relatives and extended family members should not be penalized for old arrests or convictions that have no bearing on the safety of a child in their care. To the contrary, the California Court of Appeal has concluded that non-exemptible prohibitions on placement and approval based on criminal background invade the close, parent-like relationship that many kinship caregivers have with the children in their care. Further, child welfare agencies should not separate siblings based on subjective judgments about a relative caregiver's home or resources.

Solutions:

- Amend existing law related to relative preference to clarify that the juvenile court has independent judgment to order placement with a relative or nonrelative extended family member (NREFM) if the placement does not pose a health and safety risk to the child.
- Ensure robust implementation of the existing "child-specific" approval process to allow such approval to be granted whenever the relative has a family-like relationship with the child; and expand child-specific approval to apply to siblings, absent a risk to the child.
- Remedy barriers to approval when relatives lack childcare supplies such as cribs, car seats, and booster seats.
- Expand the list of convictions that are eligible for an exemption or simplified exemption, particularly when the caregiver has a parent- or family-like relationship with the child and does not pose a health or safety risk to that child. This would effectively replace the current framework for approval and placement with one that is more fact-specific and individualized.
- Add a "reasonable efforts" requirement for child welfare agencies to help relatives avoid placement delays that occur when they lack childcare supplies; and allow agencies to waive on a case-by-case basis the RFA requirement that a household have a certain level of financial ability.

2 Use Voluntary Placement Agreements as a proactive family engagement tool.

The Problem: In California, a voluntary placement agreement (VPA) is the only legal option a child welfare agency may use to facilitate an out-of-home placement outside of a petition filed with the juvenile court. Nevertheless, many counties force the movement of a child to a relative's home without any documentation or use variations of a "safety plan," which is not authorized by statute and does not provide any due process protections to the parent or funding to the caregiver or child. Safety plans also do not result in a transfer of legal custody and control to the child welfare agency or the caregiver. Some argue that safety plans and other informal arrangements can protect children and families from the potential harms of the child welfare process. However, these diversion practices often include an element of coercion and thus compound the power imbalance between system actors and families of color.

Solutions:

- Replace "safety plans" with VPAs. VPAs are written contracts that allow parents to work with the child welfare agency to identify a temporary placement for their child while receiving services and supports. This gives parents the time and space to consider placement options for their children because parents generally are best positioned to know where their children will feel safe and supported.
- Couple increased use of VPAs with universal access to quality pre-petition representation to ensure families are made aware of the requirements of the agreements. Counties that currently utilize VPAs but do not follow the legal requirements related to the formation, timing, and resolution of VPAs should revise their policies and practices to ensure that VPAs are truly voluntary.

- Develop statewide guidance and training to ensure that VPAs are understood, familiar, and easily accessed.

3 Permit families, parents, or children to seek court review of any safety plan or informal care arrangement.

The Problem: Safety plans and other informal care arrangements can contribute to the racial disparities in child welfare. As documented by families and advocates,[13] agency staff frequently ask relatives to decide between assuming care of a child outside the formal system or allowing that child to be placed in foster care with a stranger. Fearful of losing the child to foster care, relatives are likely to choose the former option. But even if agency staff view informal placements as a way to shield families from the harms associated with foster care, these arrangements allow agencies to wield the power of family separation without having to prove in court that the removal was appropriate or provide supports and services to families. Thus, safety plans and other informal arrangements weaken the checks and balances in a system that is already tilted against the low-income families of color who comprise a large share of caseloads.

Solution:

- To protect due process rights, parents or children should be permitted to seek court review of any safety plan or informal care arrangement that did not utilize the state-sanctioned VPA process and form or contain sufficient markers of voluntariness. Filing a request for judicial review would trigger appointment of legal counsel. This will allow parents to avail themselves of the representation offered by the child welfare system in those instances when such representation and support was denied because the child was removed from the parent through alternative, and unsanctioned, means.

4 Facilitate expedited guardianships through the dependency court system.

The Problem: California law allows for juvenile courts to order guardianship in lieu of ordering a child into a foster care placement, protecting parental choice and family integrity for those parents who do not wish to receive reunification services and want an alternative plan for their child. However, these types of guardianships are not widely utilized. Instead, relatives are encouraged to seek guardianship in probate court despite the fact that the probate court is not equipped to adjudicate cases involving child abuse and neglect. Probate guardianships can leave the families who are overrepresented in child welfare with less decision-making power and fewer resources for addressing the issues that led to their involvement with the system.

Solutions:

Families should not have to forfeit the legal protections and the supports and services afforded by the dependency system in order to place a child in a legal guardianship with a relative. The Welfare and Institutions Code 360(a) guardianship process should be amended to allow more family decision making with the benefit of counsel, while limiting unnecessary exposure to the child welfare system and juvenile court. This can be accomplished in three ways:

- Promoting family autonomy by allowing parents to designate individuals they determine to be fit to serve as the guardian rather than requiring resource family approval.
- Funding all guardianships ordered pursuant to WIC Code 360(a) under the state Kinship Guardianship Assistance Payment (Kin-GAP) Program by exempting families from the standard Kin-GAP requirements that the child must have been placed with the relative pursuant to a voluntary placement agreement or foster care placement for six consecutive months.
- Changing the requirement that allegations against the parent must be substantiated before the court can order a guardianship under 360(a).[14]

[13] Alliance for Children's Rights and Lincoln, "The Human Impact of Bypassing Foster Care."
[14] CA Welf & Inst Code § 360 (amended 2010).

POLICY REFORMS TO PRIORITIZE FAMILY- AND COMMUNITY-CENTERED PATHWAYS TO REUNIFICATION

SUMMIT RECOMMMENDATIONS

In a child welfare system that is truly family-centered, children remain connected with their families at every step of the process; the emphasis is on relational permanence and ensuring the family continues to feel supported. However, as the system currently functions, parents must overcome bureaucratic and logistical hurdles to maintain contact with their children and show their commitment to growing from the events that led to the separation. Instead, agencies can support successful reunifications by instituting more flexible policies around visitation and ensuring that mandated services for parents are accessible in terms of location and cost.

PROPOSED REFORMS

1 Restructure visitation to promote family bonding time and set the stage for successful reunification.

The Problem: Though consistent and meaningful visitation is vital to reunification, the standard visitation order almost always begins with supervised visitation and allows for just a few hours of visitation per week. In addition, visits are often scheduled during business hours and at locations far from where parents live. When such obstacles prevent parents from seeing their children on a regular basis— coupled with any implicit biases county workers may hold—county agencies may assume parents are not committed to reunification.

Solutions:

1. Require that social workers make visitation recommendations on a case-by-case basis, taking into consideration each family's unique situation and needs.
2. Allow for unsupervised visitation unless there is an identified safety risk to the child. Order monitored visits only as needed.
3. Choose date, time, and location of visits based on parents' availability and transportation needs.
4. Incorporate parents in children's daily lives and arrange visits that emulate normal parent-child interactions through activities such as cooking dinner together or going to the park, movies, school extracurriculars, etc.
5. As appropriate, increase the frequency of sibling visits when siblings are placed in separate homes.
6. Determine frequency and duration of visits based on child's age and developmental stage, as well as family's goals for reunification.
7. Review visitation recommendations regularly as case evolves, with an eye towards greater frequency of visits and fewer limitations.

2 Ensure access to reunification services.

The Problem: For the communities that are overrepresented in the child welfare system, challenges with accessing and paying for services often add to the daily stressors of poverty and structural racism. If court-ordered reunification services are not readily accessible and provided free of cost to parents, families are less likely to reunify.

Solutions:

1. Braid federal, state, and local funding streams to provide financial support for all reunification services in a family's case plan, including building sufficient capacity to eliminate waitlists for subsidized services.
2. Adopt policies and practices to ensure that parents can access reunification services regardless of geography, disability, or barriers related to transportation or work or program schedules. The onus should be on the county to ensure that reunification services are truly accessible.
3. Deepen relationships with community-based organizations that can provide culturally competent reunification services.