

Foster Care Reform

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Abstract

The purpose of this research is to look at the formation of the current foster care system since the implementation of child protective services, and determine which aspects of foster care are still in need of reform, as well as what that reform might look like. The foster care system in place today has been created gradually over a century, with increasing Federal funding and protection, as well as a trial-and-error system of refinement. This research highlights areas of interest in current events and analyzes the success of programs being implemented elsewhere, which should be considered by lawmakers for further refinement. The current system is failing youth, and this research demonstrates not only the areas that are failing but what can be changed to remediate that. Rather than a checked list of services and expectations in a one-size-fits-all format, successful programs are focusing on individualized support with the goal of independence and reunification, as well as creating a network for families in the foster care system to prevent re-entry. If the holistic approaches outlined in this research are adopted by the legal field, it will continue to reduce the numbers of children in foster homes and improve their lives while in state custody.

Foster Care Reform

The number of children in the foster care system in Jefferson County, Missouri has been steadily rising, creating a situation where it is increasingly vital to determine what must change to reverse this trend. While the general public will agree the foster care system is flawed, it is only by examining outdated, conflicting, and changing laws in addition to new, successful programs elsewhere that lawmakers can identify these flaws and their respective solutions. This will reveal specifics regarding how to improve the astronomical abuse statistics and poor quality of life for children in Jefferson County, Missouri foster care.

History of Foster Care Reform

One cannot determine the ideal direction of foster care, moving forward, without fully comprehending where foster care began. Foster care reform has been happening slowly but steadily for over more than a hundred years. Following the case of Mary Ellen Wilson in the late nineteenth century, the Society for the Prevention of Cruelty to Children was formed in New York in 1874. The desire to create organizations to prevent child abuse resulted in over three-hundred charities nationwide by 1922 (National Child Abuse and Neglect Training and Publications Project, 2014). This began the nation's realization that it does indeed take a village to raise a child (National Child Abuse and Neglect Training and Publications Project, 2014).

The Children's Bureau was formed in 1912 as the first federal agency in the world, but it did not initially focus on abuse and neglect. Signed by President Taft and run by Julia Lathrop, it focused on child labor and infant deaths as it was a division of the Department of Labor. This was due to 10% of infants dying in the U.S. within the first year of life during the dawn of the twentieth century (U.S. Department of Health and Human Services, 2012). Lillian D. Wald and

Florence Kelly of New York City formed the idea for an agency addressing these issues in 1903. The women believed an agency promoting children's health and welfare would be beneficial, and the idea was presented to President Theodore Roosevelt who wholeheartedly agreed. After several years of campaigning and many failed bills, President Roosevelt created the White House Conference on the Care of Dependent Children. This group of stakeholders worked together to endorse the idea, and the bill was finally signed by President Taft on April 9, 1912, proclaiming the Federal Government has a responsibility for child welfare. It was moved to the Social Security Administration in 1946 (U.S. Department of Health and Human Services, 2012).

In 1913, the first study was conducted on infant mortality by the Children's Bureau. Where society had previously considered infant mortality a type of survival of the fittest, stating that it prevented the weak from becoming plentiful, the high death rate called for an investigation to determine whether it could be prevented. It was discovered that creating a birth record was the starting point needed. With the birth record, a book titled Prenatal Care describing proper infant care was sent home with the new mother, and infants birthed by a midwife were provided a nurse visit promptly after birth. With a \$2,500 budget and a staff of four, Johnstown, PA was the focus of the study that ultimately reduced child mortality rates by 24% by 1921 (U.S. Department of Health and Human Services, 2012).

"Children's Year" was created in 1918 by the Children's Bureau, a campaign created during World War I with the goal of further reducing infant deaths. Eleven million volunteers worked nationwide weighing and measuring children, encouraging healthy playtime for proper development, educating parents on nutrition, and encouraging academics rather than labor (U.S. Department of Health and Human Services, 2012). It also worked to promote literacy. Minimum standards were set addressing child employment, public protection of health care for pregnant

mothers, and services available for children with special needs (U.S. Department of Health and Human Services, 2012).

With child protection becoming a focus during the early 1920's, juvenile court standards were set in 1923. It established jurisdiction for children being adopted or needing their custody determined due to abuse or neglect. This included homeless, destitute, and abandoned children. It designated eighteen as the age to determine the juvenile court system jurisdiction, stating the maximum age shall not be younger than eighteen. The standards required the police department to work in conjunction with the juvenile court system, as well. It stated that social investigation will be a part of every case. Additionally, a physical and mental examination of the child, his or her developmental history, school records, a study of his environment and family, causal factors, and any recommendations for services must be included (U.S. Department of Health and Human Services, 2012).

The juvenile court standards set for rules of hearings were created with the best interests of children in mind. It states that hearings must be held within forty-eight hours of serving parents. There cannot be publicity for juvenile hearings, and even witnesses called to testify cannot remain in the courtroom except when testifying. Additionally, it stated protection for the children from publicity is essential. The hearing must be conducted as informally as possible, and formal rules used in criminal trials should be avoided. An unofficial and private transcript of the hearing shall be kept, and children should not be present for abuse and neglect cases (U.S. Department of Health and Human Services, 2012).

The charities created in the late 1800's addressing child abuse began suffering in 1929 due to limited funding and donations during the Great Depression. Where individuals previously felt this was not a matter the Federal Government should address, believing in state's and

individual's rights, the desire began increasing for federal intervention in many areas of life. The St. Louis Children's Aid Society employed surveys of agencies in thirty-six major cities inquiring as to whether social agencies should be responsible for child protection. Thirty of the thirty-six agencies affirmed the responsibility, and three had begun assuming this responsibility (National Child Abuse and Neglect Training and Publications Project, 2014). In 1954, the Director of Children's Services surveyed the three-hundred organizations previously treating abuse to determine how many were still in operation. Only eighty-four were still in existence, and these were serving only sixteen states, leaving thirty-two states without services for child abuse victims and prevention (National Child Abuse and Neglect Training and Publications Project, 2014). By 1960, media attention regarding a failing system of child abuse prevention came to the forefront (National Child Abuse and Neglect Training and Publications Project, 2014).

It was in 1953 that the Children's Bureau became a part of the new Department of Health, Education, and Welfare. This was due to new studies that highlighted the need for increased focus on children whose health or welfare was in jeopardy. It also began evaluating funding costs and effectiveness. As a result, A Research Program for the Children's Bureau was published, which evaluated prior research and its findings. Among this were connections between infant mortality rates and socioeconomic status. This publication set the stage for developments throughout the 1960's (U.S. Department of Health and Human Services, 2012).

The Social Security Act, 42 U.S.C. § 7, was amended in 1962 to include funding to child welfare services. The act specified Child Protective Services as a part of public child welfare. Additionally, the amendment required states to pledge that by July 1, 1975 child welfare services would be statewide. A publication titled The Battered Child Syndrome raised awareness of the

epidemic child abuse occurring in the nation, as did meetings to determine the areas in which the Children's Bureau needed reform to effectively respond to child abuse. These meetings eventually created the child abuse reporting laws implemented the following year, 1963 (Myers, 2008).

Following the White House Conference on Youth in 1961, which resulted in the appropriation of \$150,000 for the Children's Bureau, the number of children receiving welfare services rose by 50% by 1967 (U.S. Department of Health and Human Services, 2012). President Lyndon Johnson's "War on Poverty" Economic Opportunity Act changed the face of the welfare child, however. Rather than children removed from the home due to poverty alone, most were victims of abuse, neglect, or substance abuse. The same year, the landmark case *In re Gault*, 387 U.S. 1 (1967) changed the Standards for Juvenile and Family Courts by extending due process rights to youths (U.S. Department of Health and Human Services, 2012).

Despite the amendments to the Social Security Act in 1962, U.S. Senator Walter Mondale stated in 1973, "Nowhere in the Federal Government could we find one official assigned full time to the prevention, identification and treatment of child abuse and neglect (Myers, 2008, p. 456)." Because of this statement, the Child Abuse Prevention and Treatment Act (CAPTA), 42 U.S.C. § 67, was passed on January 31, 1974 by Richard Nixon. CAPTA authorized and allocated federal funds to improve the investigation, identification, and treatment of child abuse and neglect as well as funding for research to determine prevention strategies. 42 U.S.C. § 67 (West 1974).

CAPTA also created the National Center on Child Abuse and Neglect within the Department of Health Education and Welfare, which was later changed to the U.S. Department of Health and Human Services (HHS). It established a National Clearing House on Child Abuse

and Neglect Information (NCCANCH), which maintains and disseminates information regarding effective programs, practices for improvements in the child protective system, safety plans for infants born addicted to drugs and alcohol, resources, and cases of child abuse, neglect, and trauma (42 U.S.C. § 5104). Additionally, CAPTA created basic federal grants for states to support new prevention, assessment, investigation, prosecution, and treatment activities, as well as demonstration grants to public agencies and nonprofit organizations to test innovations and train personnel. 42 U.S.C. § 67 (West 1974).

In 1975, *Gerstein v. Pugh*, 420 U.S. 103 (U.S. 1975) changed the evidence allowed in foster court hearings. The case itself was concerning prisoners being held for a protracted time without a preliminary hearing to determine probable cause, so on the surface it appears to have no relevancy to foster court. However, the ruling stated that hearsay is permissible in hearings where probable cause must be established. In foster court hearings, hearsay is essential to prevent re-traumatizing children by forcing them to testify in court before the abusive parents. By allowing hearsay in foster court proceedings, abused and neglected children may recount details of trauma to professionals, who will then relay these details to the court without the children present. *Gerstein v. Pugh*, 420 U.S. 103 (U.S. 1975).

In 1988, amendments to the Child Abuse Prevention and Treatment Act (CAPTA) created the Federal Inter-Agency Task Force on Child Abuse and Neglect. The task force was originally composed of thirty agencies, though now is composed of forty agencies and is called the Federal Inter-Agency Work Group on Child Abuse and Neglect (U.S. Department of Health and Human Services, 2012). The task force created a forum where agencies may exchange ideas regarding child abuse and neglect programs, collect information about Federal child abuse and

neglect activities, and receive assistance with funding and resources for programs (U.S. Department of Health and Human Services, 2012).

In 1997, The Adoption and Safe Families Act (ASFA), 42 U.S.C. § 403(b), 453, 1130(a) was passed. The act created additional requirements for the existing federal laws. This included a requirement for the states to file for the termination of parental rights when the child has been in foster care at least fifteen of the past twenty-two months, in cases of abandonment, or if the parent has been convicted of a felony crime against one of his or her other children. The act also specified instances where the state is not required to file for termination of parental rights. This includes cases where a relative is caring for the child, there is sufficient evidence as to why terminating parental rights would not be in the child's best interest, or the state did not provide timely services to the family for reunification. 42 U.S.C. § 403(b), 453, 1130(a).

ASFA established strict timelines for reunification and termination of parental rights, as well. Permanency hearings were required within twelve months from when the state obtained jurisdiction. A hearing was required to be held at a minimum of every twelve months, as well, whether the goal was adoption, guardianship, or another planned permanent living arrangement (APPLA). It required foster parents, potential adoptive parents, and guardians to be provided the opportunity to attend hearings and be heard. However, it also required that they complete criminal records checks before becoming foster parents, potential adoptive parents, or guardians. Any conviction of child abuse or neglect, spousal abuse, a crime against children, including possession of child pornography, or any violent crime would eliminate the potential for obtaining legal rights to the child. 42 U.S.C. § 403(b), 453, 1130(a).

In 1999, the John H. Chafee Foster Care Independence Act, 42 U.S.C. § 677 (1999), was added to the Social Security Act to provide funding for foster youth remaining in care up to or

beyond the age of 18. It was created with the goal of assisting youth to achieve independence in early adulthood. The act provides funding for a high school diploma, vocational training, life skills training, budgeting, substance abuse prevention, preventative health (including alcohol and tobacco avoidance), job placement, and career assistance. Additionally, the act created the Educational and Training Vouchers Program (ETV) for Youths Aging out of Foster Care, which provides up to \$5000 annually for college tuition. 42 U.S.C. § 677 (West 1999).

Not only does the Chafee Act prepare foster children for the transition into adulthood, but it rewards their own efforts towards independence. With approximately 20,000 children nationwide aging out of foster care annually with no support network in place, and many times no place to live, this act prevents homelessness and all its comorbidities (Missouri Department of Social Services, n.d.). While helping these children reach their educational and vocational goals, it also assists them with relationship building and self-esteem. This results in self-sufficient, contributing members of society and potentially prevents the cycle of poverty and abuse often seen in foster care situations (Missouri Department of Social Services, n.d.).

In the state of Missouri in 2003, *Heartland Academy Community Church v. Michael Waddle*, 335 F. 3d 683 (2003) established there must be imminent danger to remove children before the court issues removal. Heartland Christian Academy, operated by the Heartland Academy Community Church, was a Christian faith-based boarding school, which provided programs for children with substance abuse and behavioral problems. On October 30, 2001, there was a police raid on the Academy, which consisted of thirty police officers and resulted in the removal of one-hundred-fifteen students. However, removal was based on false reports. The court determined only in cases of imminent danger may children be removed before attending

the hearing to first determine reasonable suspicion. *Heartland Academy Community Church v. Michael Waddle*, 335 F. 3d 683 (2003).

In re C.N.G., 109 S.W. 3d 702 (Mo. App. W.D. 2003) states that service plans must be tailored to each case and its individual needs. In this 2003 case, the mother was neglecting to care for her children due to the abuse of prescription drugs. While the children were in state custody, she took an entire bottle of Ambien, resulting in a fall. Due to pain from the fall she was prescribed Vicodin, of which she also took the entire bottle. She also did not complete her service agreement and subsequently failed to financially provide for her children. The lower courts were found to have only considered the portions of her service agreement that she did not comply with, without weighing the portions of which she did comply. *In re C.N.G.*, 109 S.W. 3d 702 (Mo. App. W.D. 2003).

In re K.A.W., 133 S.W. 3d 1 (Mo. banc 2004) ruled a parent's right to raise his or her children is a fundamental liberty interest protected by the constitutional guarantee of due process, creating a duty for reasonable efforts towards reunification. In this 2004 Missouri Supreme Court case, the mother of twins cared for said twins appropriately up until the time she found a family she felt was suitable for adoption. The adoptive family was British, and eventually the twins were removed by British officials due to family being found unfit. Since the mother resided in Missouri, jurisdiction was transferred to Missouri Children's Division. The mother decided to fight for reunification and completed everything on her service plan, even overachieving in some areas. However, the court filed for termination of parental rights, stating that she neglected them by not bonding with them and moving them in infancy, which resulted in reactive attachment disorder. *In re K.A.W.*, 133 S.W. 3d 1 (Mo. banc 2004).

The termination of parental rights was granted in this case, and the mother filed an appeal. The court found that looking at the past is only relevant if it also predicts the future, and terminating parental rights would require the expectation of future harm. The standard of proof in foster court hearings is “clear, cogent, and convincing evidence”, which is much more than the “preponderance of evidence” (greater than 50%) requirements found in civil court proceedings, but less than the “beyond a reasonable doubt” (100%) requirements in criminal trials. The court determined the mother was not searching for an adoptive home, and there was no reason to believe she would search for an adoptive home in the future, which was the only source of abuse or neglect. Additionally, it was found that the right to parent a biological child is constitutionally protected through due process. “It is one of the oldest fundamental liberty interests recognized by the United States Supreme Court. *In re K.A.W.*, 133 S.W. 3d 1 (Mo. banc 2004), Section V.”

In 2008, the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act) made changes to the Social Security Act. It was created to address the number of children unprepared when transitioning out of foster care by allocation of additional Federal funding. This expanded services and funding so that youth may remain in care up to age twenty-one instead of eighteen with the requirement that they are in school, vocational training, or employed at least eighty hours a month. It created an incentive program to encourage adoptions and funding for tribes, as well. H.R. 6893/P.L. 110-351.

It also created financial support for kinship guardians in an effort to encourage family members to acquire placement of the foster youth. Often, it is economic instability that prevents relative guardianship, so receiving monthly assistance promotes family members with long-standing connections to the child to step in and obtain guardianship. The act made sibling co-placement a priority to reduce the number of separated sibling groups, as well. It also made

same-school placement a priority to keep a sense of normalcy, provide education stability, and reduce re-traumatization from the loss of friends and support which occurs with changing schools. H.R. 6893/P.L. 110-351.

The CAPTA Reauthorization Act of 2010, 42 U.S.C. § 67 (West 2010), was signed on December 20, 2010. It aimed at improving the child protective services, creating training opportunities for professionals, and enhancing collaboration and communication between agencies. The act created a differential response system, which is simply the ability to differentiate the response to specific child abuse and neglect allegations. This is pertaining to the investigation and assessment of the claims and is based on a number of factors. The act also allowed the differential response system to be an eligible subject for research and training under CAPTA grants. 42 U.S.C. § 67 (West 2010).

The CAPTA Reauthorization Act of 2010 also addressed domestic violence by addressing the co-occurrence of child abuse. It allowed grants to fund the treatment of children suffering from exposure to domestic violence. The act also added a requirement that the U.S. Department of Health and Human Services disseminate information on the co-occurrence of child abuse and domestic violence for prevention and awareness while adding domestic violence to research and training under CAPTA grants. 42 U.S.C. § 67 (West 2010).

Furthermore, grants were added to the act with the goal of increasing adoption if the grantee could explain how the permanency rate would be improved, state how the placement of minority and special needs children would be improved, and evaluate the effectiveness while coordinating with other providers. Substance abuse was also addressed by the act as a common co-occurrence with child abuse, and treatment, prevention, and research were added to the grant. Indian tribes were added to the act providing discretionary grants, and tribal representatives were

added to the board. Citizen Review Panels to evaluate the success of states' child protection responsibilities according to CAPTA standards were added, as well. 42 U.S.C. § 67 (West 2010).

Foster Care is Still Failing

In the 2010 peer-reviewed article *Disrupting the Pathway from Foster Care to the Justice System: A Former Prosecutor's Perspectives on Reform*, Miriam A. Krinsky outlines the astronomical number of foster children who are lost following emancipation. The lecturer from UCLA and adjunct professor at Loyola University states that at any time approximately half a million victims of child abuse and/or neglect are in the foster care system and this number is on the rise (Krinsky, 2010). Within a few years following emancipation from foster care, over half are unemployed, about a quarter are homeless, about a quarter will end up in jail, and about a third will be on public assistance (Krinsky, 2010). The reasons for criminal behavior include untreated mental health or substance abuse issues, school absences, and no stable living environment (Krinsky, 2010).

Krinsky refers to the foster care system as “dealing with disjointed leadership, siloed funding, information gaps, uncertain accountability, and woefully insufficient resources <which> fails to address the social, developmental, and emotional needs of youth in foster care (2010, p. 323).” These are harsh words, but this judgment is a result of Krinsky's ten years advocating for children in foster care and fifteen years as a prosecutor, working for the Department of Justice. She goes on to explain that life in foster care is riddled with re-traumatization. These children leave their homes, families, friends, pets, and belongings behind when they are removed. Then, they are bounced from one foster home to another, many times without their siblings. Half do not have mental health needs met, many live in poverty, and continued abuse may occur in their

foster care placement (Krinsky, 2010). A shocking 75% are struggling academically, and only 15% attend college (Krinsky, 2010).

The National Commission on Children said it best in *Beyond Rhetoric: A New American Agenda for Children and Families: Final Report of the Nat'l Comm'n on Child*. "If the nation had deliberately designed a system that would frustrate the professionals who staff it, anger the public who finance it, and abandon the children who depend on it, it could not have done a better job than the present child-welfare system (National Commission on Children, p. 5, 1991)." With the foster care system failing these children, the lack of support systems and role models along with a feeling of isolation makes foster children susceptible for recruitment into gangs. In Los Angeles, 24% of crossover youth, moving from foster care to the justice system, were known gang members, and over 83% had substance abuse or mental health problems (Krinsky, 2010). A mere 8% received substance abuse treatment (Krinsky, 2010). To add insult to injury, foster care bias has them more likely to be arrested and charged with crimes, without a support system to reverse the trend (Krinsky, 2010).

For African-American youth, the situation is even more dire. These children are found to have a higher rate of poverty, have fewer services available, experience racial distrust resulting in difficulty acquiring housing, and remain in foster care longer due to difficulties finding placement. This trend has caught the attention of the U. S. Department of Health and Human Services, though budget proposals for addressing the concern have not been passed (Kaczmarek, 2010).

Though African American children only make up 15% of the child population, they encompass 32% of children in foster care (Kaczmarek, 2010). Approximately 34% of African-American households are with a single mom, compared to 9% for white households (Kaczmarek,

2010). According to the National Incidence Study, single-parent households had a 77-87% greater risk of child abuse and neglect (Kaczmarek, 2010). African-American households are four times more likely to be impoverished, as well, which creates a situation where services and support are unavailable for these families (Kaczmarek, 2010). Add to that the African-American distrust of the system due to racial bias, and one finds a system desperately in need of reform (Kaczmarek, 2010).

In Missouri, some of the current laws are conflicting, creating undesirable situations. Mo. Rev. Stat. § 211.038 (2013) prohibits children from being placed with a parent with someone in the home who has been convicted of certain felonies where a child was the victim, while Mo. Rev. Stat. § 211.183.7 (2014) states that Children's Division is not required to make reasonable efforts towards reunification only when the child or another child of the parent was the victim. This sometimes creates a situation where reasonable efforts must be made towards reunification with a sex offender even though the child can never be placed with him or her.

Current Events in Foster Care Reform

Some laws are currently changing in Missouri while new laws are being made to assist foster youth. Mo. Rev. Stat. § 210.665 (2016), referred to as HB1877 or the "reasonable and prudent parent" law, just went into effect early 2017. It allows extracurricular activities, enrichment, cultural, and social activities to be decided by foster parents to improve quality of life. The statute specifies the foster parent must consider the child's development and maturity level, health, any risk factors, appropriateness, best interests, and any other relevant factors while promoting safe and normal childhood experiences as a biological parent would. Training is required for defining prudent parenting. This provides the skills to determine best interests and safety, applying the prudent parenting standard to decisions, skills with developmental stages of

childhood, an understanding of permissions slips and transportation, as well as the understanding of the consequences of harm caused to the child. Mo. Rev. Stat. § 210.665 (2016).

At the same time, a bill in Jefferson County created to join a drug monitoring program in St. Louis failed due to privacy concerns, so Missouri Governor Eric Greitens signed Executive order 17-18 to create a statewide Prescription Drug Monitoring Program. This was due to over 900 opioid deaths in Missouri in 2016 with more than half being legally prescribed medications (Lawson, Back, Hartwell, Maria, & Brady, 2013). In Missouri, there are more than 89,000 opioid prescriptions for every 100,000 people (Lawson, Back, Hartwell, Maria, & Brady, 2013). In a recent study, it was also found that 80.5% of opioid users experienced some kind of traumatic event in their childhood, whether sexual abuse, physical abuse, physical neglect, emotional abuse, or violent trauma highlighting the cycle of abuse that is commonly seen in foster care (Lawson, Back, Hartwell, Maria, & Brady, 2013).

Watchdogs Children's Rights and St. Louis University School of Law Legal Clinics are currently suing Jennifer Tidball, State Director of Missouri Department of Social Services and Tim Decker, Director of Children's Division, in *M.B. v. Tidball*, Complaint 6.12.2017, thus filed June 12, 2017, in the U.S. District Court Western District of Missouri Central Division. Claims are that psychotropics are given to foster children too readily and without regard to safety, medical records are not maintained for foster children, there lacks a system for identifying and addressing these issues, and there lacks informed consent for these drugs. *M.B. v. Tidball*, Complaint 6.12.2017.

In this case, M.B. is a fourteen-year-old boy currently placed in a residential facility in Missouri. He has been in foster care for three years with over eight different placements, two of which occurred in a psychiatric hospital, and at the age of twelve he was prescribed six

psychotropic medications at one time. Of those, one was lithium and two were atypical medications. By the age of fourteen, in January of 2017, he was taking seven psychotropic medications, three of which were antipsychotics. He was also prescribed a medication to control the tics and twitches caused by the psychotropics and medication for the hypothyroidism caused by long-term lithium use. *M.B. v. Tidball*, Complaint 6.12.2017.

During this time, his medical and mental health records were not properly maintained, though his prescriptions constantly and rapidly changed over the course of the years, ultimately resulting in this foster child being harmed as well as put in risk of further danger. Specific complaints include failure to ensure psychotropics were only prescribed when necessary, failure to maintain proper health records, failure to impose a system to ensure this child's safety was a priority, and failure to document informed consent with prescriptions. *M.B. v. Tidball*, Complaint 6.12.2017.

In this case, Children's Rights states that each year 13,000 foster children in Missouri are put at risk of harm due to the lack of oversight regarding prescription psychotropics (*M.B. v. Tidball*, Complaint 6.12.2017). The class of psychotropics includes medication for ADHD, anxiety, depression, conduct disorder, and the like. To add insult to injury, children treated with psychotropics are at an elevated chance of type 2 diabetes, with three-times the risk (*M.B. v. Tidball*, Complaint 6.12.2017). The medications also have life-long side effects such as seizures, psychosis, organ damage, weight gain, and other potentially fatal conditions. Many of these drugs are not approved by the FDA for use in children, so there is no recommended dosage. Add to this the fact that often these children are prescribed multiple psychotropics at one time, and this is a recipe for disaster. *M.B. v. Tidball*, Complaint 6.12.2017.

Children's Rights wants accountability for the state. They want effective oversight and monitoring of these dangerous prescriptions. In 2011, the Child and Family Services Improvements and Innovation Act was signed by Congress requiring monitoring of psychotropics used with foster children, yet Missouri Children's Division has failed to comply. Children's Division even admitted to the problem, stating that these children are being administered multiple medications, which is potentially dangerous. Children's Rights demands compliance in this lawsuit. *M.B. v. Tidball*, Complaint 6.12.2017.

Current Program Developments in Missouri

The Signs of Safety program is currently and gradually being implemented in Missouri. With the goal of reducing the number of children in state custody by developing a support network and safety plan for at-risk families, the program is strengths-focused in nature. It creates goals the parents can easily follow because one common complaint has been that they could not comprehend what they needed to do to get their children back. This program also addresses the problem by having parents participate in creating goals, which gives them a feeling of control and willingness to cooperate (Turnell & Edwards, 1997).

According to researchers and policy makers, the Signs of Safety Program created in Western Australia applies the global trend towards collaboration to child welfare. In moving away from the risk assessment perspective, the program seeks the parents' perspectives with solutions-focused brief therapy. This begins with discovering the positions of each family member through interviews. Questions are asked regarding times when abuse could have occurred but was avoided to identify the parent's appropriate coping skills, as well. Learning the family's strengths is integral to the Signs of Safety program (Turnell & Edwards, 1997).

The future of any case, in the Signs of Safety program, is decided by all parties who are involved in the child's life. A network of support is created for the immediate family, through the contacts of friends and extended family, and everyone has input regarding their worries and ideas for a safety plan. Family members often have the greatest input as to what would need to occur to establish a safe environment. Rather than focusing on blame, the social worker focuses on positive change. Scaling questions help to determine where everyone is, on a scale from 1 to 10 with 10 meaning everything is perfect and 1 being the worst-case scenario. The scale is then used to identify what it would take to move that number in a positive direction. Professionals on the team will also add their input for a well-rounded picture of the situation (Turnell & Edwards, 1997).

While it can often be difficult to convince parents to cooperate with service plans, the fact that they are a part of the team deciding the plan gives them a sense of control over their situation. This creates a willingness, which is not typically seen as well as confidence in the completion of the plan. During the assessment and planning process, the team once again scales the degree of worry for the child's safety from 0 to 10, with 0 meaning re-abuse is certain and 10 meaning there is no concern. Then, risks are compiled with a safety plan for each, which creates specific goals for the family (Turnell & Edwards, 1997).

Another new program in Jefferson County is Court Appointed Special Advocates (CASA). Foster children with a CASA Volunteer assigned to the case have been found to move through significantly fewer placements than children who do not have a CASA. The CASA advocates in court for the child's best interests as well as his or her wishes. The CASA also keeps in contact with the agencies involved in the case to make sure services offered to the child are followed through in a timely manner (Calkins & Millar, 1999).

When the Child Abuse Prevention and Treatment Act (CAPTA) was passed in 1974, it created a public policy for representing the needs of children in foster court proceedings. In 1977, a group in Seattle, Washington decided the attorneys appointed as guardian ad litem for foster children were not fully representing these needs, and the CASA organization was formed by using community members as volunteers. Within the first ten years, forty-four states had CASA programs, and now all fifty states, the District of Columbia, and the Virgin Islands are represented by CASA. Additionally, in 1988 five tribal jurisdictions were added. While some CASA programs are court-based and others are not-for-profit organizations, which operate independently from the court system, all programs are overseen by National CASA in Washington DC (Calkins & Millar, 1999).

CASA Volunteers attend five weeks of training which focuses on child abuse and neglect, its psychological impact, legal procedures, foster care, cultural diversity, mandated reporting, interview techniques, confidentiality, effective writing for court reports, and local resources. The volunteer investigates for fact-finding through interviews with all parties, communicates with the agencies involved for updates and to determine the position of the various professionals, reviews records, and then uses this information to advocate for the child in the court hearings. The volunteer has the goal of being the child's voice, while also being a caring and consistent figure in the child's life. The CASA volunteer also ensures services offered to the child are fulfilled as promised, and he or she will monitor court orders to ensure compliance (Calkins & Millar, 1999).

What is Working Elsewhere

Casey Family Services, a large not-for-profit organization in New England, has begun a program designed for successful reunification. This was created due to the high incidence of

children who have been reunified with parents subsequently re-entering the foster care system. The program accepts families into its program shortly after entering state custody - typically within five to fifteen days. They then provide intensive in-home services addressing the families' needs, including food, housing, treatment, communication and parenting skills. The assessment of the families' needs is comprehensive, considering strengths as well as needs (Maluccio, Freundlich & Kerman, 2009).

Casey Family Services provide regular, consistent visits and a strengths-based approach to success. Services are goal-directed, combining both concrete and therapeutic aspects of support. Meetings are held on a regular basis and include all members of the team, focusing on good communication between members with understanding and respect. Weekly support groups are provided to the parents, as well. The team administering the services consist of a masters-level social worker, trained family support worker, and a team leader who supervises and coordinates services (Maluccio, Freundlich & Kerman, 2009).

Studies have shown most children with intensive services, in general, are reunified within three months of the intensive intervention with an average of nine months in foster care (Maluccio, Freundlich & Kerman, 2009). Of the 254 children studied who had been served by Casey Family Services, 197 had a permanent plan and 166 were reunified (Maluccio, Freundlich & Kerman, 2009). Most notable was the average reunification time of 39 weeks (Maluccio, Freundlich & Kerman, 2009). Of the children who were not reunified, 20.8% were adopted, 9.6% were in a kinship placement, and only 6.6% were in long-term foster care (Maluccio, Freundlich & Kerman, 2009).

The study then revisited the children two years after permanency and found that 61.5% were still living with their parent, 8.8% were with an adoptive family, and 24.3% were in long-

term foster care (Maluccio, Freundlich & Kerman, 2009). In the control group, who were foster children not served by Casey Family Services (CFS), 32.5% reunified were reintroduced into foster care compared to the 25.2% served by CFS (Maluccio, Freundlich & Kerman, 2009). Most notable was that, during the time in care, 64.9% of children served by CFS only had one placement compared to only 40.7% of children not served by CFS (Maluccio, Freundlich & Kerman, 2009). Children in the CFS program experiencing three or more placements was only 12.4% compared to 35.7% not receiving services (Maluccio, Freundlich & Kerman, 2009).

The findings strengthen the claim that focus of collaboration and cooperation is essential to foster care success. Research and policy revisions can use reviews to establish appropriate services through federal funds, especially regarding permanency for African-American children. Through the evaluation of innovative programs, legislative reform, and class action lawsuits, the duration of children in foster care and rate of re-entry can be significantly reduced, which would subsequently decrease spending for foster care (Maluccio, Freundlich & Kerman, 2009).

In Finland and Sweden, a program called Skolfam® has been successful in supporting children in foster care through a collaboration between social services and the school district. The school-based program created in 2005 provides ongoing psychological and educational assessments, determines strengths and weaknesses, and works towards goals. The team consists of parents, school staff, foster care workers, and psychologists. A two-year study showed improvements in all areas, indicating success (Pirttimaa & Väilivaara, 2017).

The goal of the program is to strengthen student performance while in foster care. Children in foster care have a much higher rate of failing or near failing grades, which then leads to health problems, unemployment, homelessness, and drug use in early adulthood. When children do well in school and graduate, however, the incidence of these problems is cut in half.

Skolfam® comprehensively addresses this with early intervention and increased graduation rates from 60% to 80% (Skolfam, n.d.).

In Australia, it has been discovered that farm work has a positive impact on children suffering from prior abuse and neglect. Foster children involved in farming exhibited a calmness and an improvement in self-esteem as well as a reduction in symptoms of trauma, including depression. Animal-assisted therapies allow for healthy attachments between the child and nature, creating a better outlook on attachment, as a whole. Given that these activities occur outdoors, there is an overall improved health and outlook by participating. Nature has been found to encourage a positive self-image, build healthy relationships, help with the communication of emotions, and help one see his or her contribution to society (Downes, Lakhani, Maujean, Macfarlane & Kendall, 2016).

Conclusion

The United States has spent over a hundred years working towards a system that would tend to the needs of children who have suffered from abuse and neglect, while also working to prevent abuse and neglect in the first place. This transition from once considering this a family's issue, to depending on not-for-profit charities for help, and eventually towards a lean on federal assistance, is still failing to meet the needs of this population. The African-American population, in particular, is highly at risk of entering the foster care system and ultimately either becoming homeless or in prison. While Congress has passed laws to ensure these children are properly cared for while in state jurisdiction, even the Missouri Children's Division has demonstrated the failure to meet these expectations through non-compliance with psychotropic monitoring policies.

These children are moved from one foster home to another with no support system, and they are often separated from their siblings and moved to a different school district, away from friends. While Jefferson County, Missouri is working to make improvements, most of these are currently in the process of implementation, which means more time is needed to determine the effect. There are certainly more ways the county could be assisting this unfortunate population. Programs such as the Signs of Safety Program, which is currently being integrated in Missouri, and the program administered by Casey Family Services in New England are working towards collaboration between the family and social workers in an effort to empower parents and reduce time in state custody. These innovative methods in foster care most assuredly have the potential for a positive impact, but they do not address all the issues with the current system.

In a mostly rural county such as Jefferson, the readily available nature should be considered a resource due to studies showing farm work and regular interactions with nature and animals positively affect the well-being and relationships of abused and neglected children. Creating a not-for-profit farm where foster children work with animals and crops as a form of therapy could have a tremendous impact on their quality of life and their outcome. Additionally, parental visits could be held at the farm, allowing a safe and nurturing environment for rebuilding relationships for reunification.

To create a holistic program of addressing the needs of foster children, the state should collaborate with school districts to set plans and offer services that focus on the child's developmental, educational, and emotional needs. This would require additional funding, and, given the current political atmosphere in Missouri, is not very likely to occur through the state agencies in the immediate future. However, a not-for-profit aimed at benefiting the lives of children in foster care could address both the farm work program and a collaboration with the

school district. In the meantime, lawmakers must continue to reform current laws and programs to legally address the extensive areas of failure of the foster care system. This includes full compliance with the Child and Family Services Improvements and Innovation Act, addressing conflicting statutes, and creating programs for aging youth, especially African-Americans who are particularly at-risk.

With these changes, the number of children in state custody would be significantly reduced, and their quality of life while in foster care would be significantly improved. The cycle of abuse would be prevented, in most cases, due to the support provided. The laws would be working for the best interests of the children rather than creating conflicts. And, best of all, citizens could no longer say, “If the nation had deliberately designed a system that would frustrate the professionals who staff it, anger the public who finance it, and abandon the children who depend on it, it could not have done a better job than the present child-welfare system (National Commission on Children, p. 5, 1991).”

Bibliography

42 U.S.C. § 7 (West 1962), Social Security Act.

42 U.S.C. § 67 (West 1974), Child Abuse Prevention and Treatment Act (CAPTA).

42 U.S.C. § 67 (West 2010), CAPTA Reauthorization Act of 2010.

42 U.S.C. § 453 (West 1997), Adoption and Safe Families Act (ASFA).

42 U.S.C. § 677 (West 1999), John H. Chafee Foster Care Independence Act.

42 U.S.C. § 5104 (West 1974), National Clearinghouse on Child Abuse and Neglect Information.

Calkins, C. A., & Millar, M. (1999). The effectiveness of court appointed special advocates to assist in permanency planning. *Child & Adolescent Social Work Journal*, (1), 37.

Downes, M. J., Lakhani, A., Maujean, A., Macfarlane, K., & Kendall, E. (2016). Evidence for Using Farm Care Practices to Improve Attachment Outcomes in Foster Children: A Systematic Review. *British Journal Of Social Work*, 46(5), 1241-1248.
doi:10.1093/bjsw/bcv070.

Gerstein v. Pugh, 420 U.S. 103 (U.S. 1975).

Heartland Academy Community Church v. Michael Waddle, 335 F. 3d 683 (E.D. Mo 2004).

H.R. 6893/P.L. 110-351 (1988). Fostering Connections to Success and Increasing Adoptions Act.

In re C.N.G., 109 S.W. 3d 702 (Mo. App. W.D. 2003).

In re Gault, 387 U.S. 1 (1967).

In re K.A.W., 133 S.W. 3d 1 (Mo. banc 2004).

John. E.B. Myers, *A Short History of Child Protection in America*, 42 Fam. L.Q. 456, 456-457 (2008).

Kaczmarek, J. (2010). *Foster Care and African-American Youth*. New York: Nova Science Publishers, Inc.

Krinsky, M. A. (2010). Disrupting the pathway from foster care to the justice system--A former prosecutor's perspectives on reform. *Family Court Review*, 48322.

Lawson, K. M., Back, S. E., Hartwell, K. J., Maria, M. M., & Brady, K. T. (2013). A Comparison of Trauma Profiles among Individuals with Prescription Opioid, Nicotine, or Cocaine Dependence. *American Journal On Addictions*, 22(2), 127-131.
doi:10.1111/j.1521-0391.2013.00319.x

Maluccio, A. N., Freundlich, M., & Kerman, B. (2009). *Achieving Permanence for Older Children and Youth in Foster Care*. New York: Columbia University Press.

Missouri Department of Social Services. (n.d.). Older youth program. Retrieved from <http://dss.mo.gov/cd/chafee/>

Mo. Rev. Stat. § 211.038 (2013).

Mo. Rev. Stat. § 211.183.7 (2014).

Mo. Rev. Stat. § 210.665 (2016).

National Child Abuse and Neglect Training and Publications Project. (2014). *The Child Abuse Prevention and Treatment Act: 40 years of safeguarding America's children*. Washington, DC. U.S. Department of Health and Human Services, Children's Bureau.

Nat'l Comm'n on Child. *Beyond Rhetoric: A New American Agenda for Children and Families: Final Report of the Nat'l Comm'n on Child*. 293 (Gov't Printing Office 1991).

Pirttimaa, R. & Väliavaara, C. (2017). Educational intervention planning for children in foster care in Finland: A case study. Retrieved from <http://dx.doi.org/10.1080/20004508.2017.1328932>

Skolfam. (n.d.). Skolfam in English. Retrieved from <http://www.skolfam.se/in-english/>

Turnell, A., & Edwards, S. (1997). *Aspiring to Partnership. The Signs of Safety approach to child protection*. *Child Abuse Review*, 6(3), 179-190.

U.S. Department of Health and Human Services. (2012). Federal Inter-Agency Work Group on Child Abuse & Neglect. Retrieved from <https://www.acf.hhs.gov/cb/resource/fediawg>

U.S. Department of Health and Human Services. (2012). *The story of the children's bureau*. Retrieved from https://cb100.acf.hhs.gov/sites/all/themes/danland/danblog/files/Story_of_CB.pdf