

STRATEGIES FOR ACHIEVING TIMELY PERMANENCE

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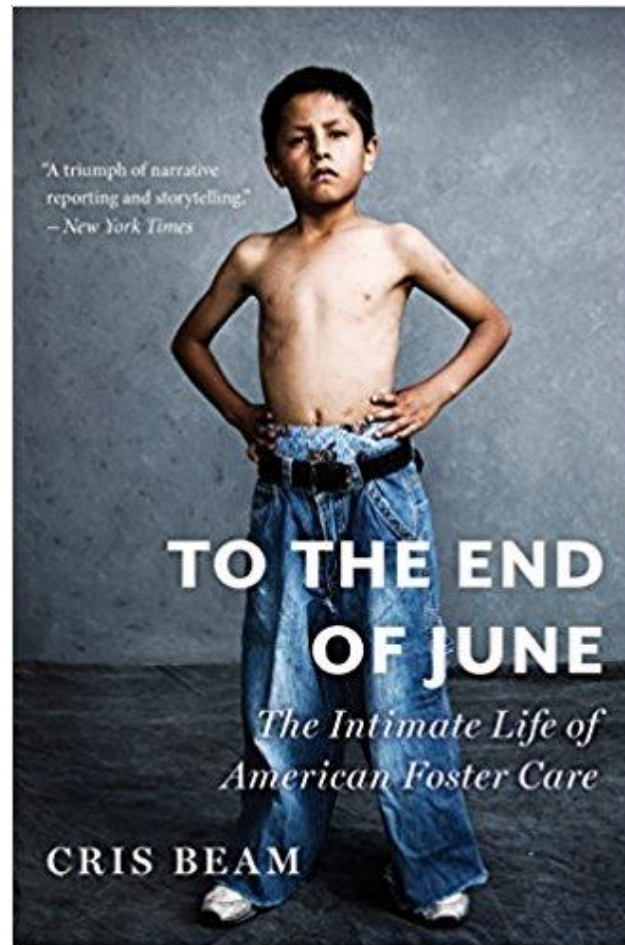
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History of Child Welfare in the U.S.



Modern Child Welfare in the U.S.



To The End Of June by Cris Beam

“I know that there are more than 400,000 kids in foster care in America today. I know that foster children are twice as likely to develop Posttraumatic Stress Disorder than are veterans of war. I know that, in some states, they’re more likely to be abused in foster care than they are at home. I know that kids stay in foster care for about two years on average nationwide, and three years in New York.

To The End Of June

- More than a million adults are directly or indirectly employed to ensure their well-being, and \$15 to \$20 billion a year are poured into overseeing their health and management. And yet nobody – not the kids, not the foster or biological parents, not the social workers, the administrators, the politicians, the policy experts – thinks the system is working.”

- - excerpted from “To The End Of June” by Cris Beam

Child Welfare

- Social work meets the law.
- The history of child welfare in the United States can be characterized by continuous thematic shifts between family preservation and child safety.
 - ▣ This is the constant struggle. A balancing act that no state has perfected.

Best Interests vs. The Constitution

- There is a constitutional interest in raising one's own children. The state can only interfere when it is necessary to protect a child. The state has an interest in protecting children (citizens) from harm. Parents have a constitutional right to raise their children free from state intervention. That is what child welfare law is about.
- Best Interests is a guiding principle, but it is trumped by constitutional rights.

Child Welfare in America – Early Days



Homeless Children.

All children received under the care of this Association are of **SPECIAL PROMISE** in intelligence and health, and are in age from one month to twelve years, and are sent **FREE** to those receiving them, on ninety days trial. **UNLESS** a special contract is otherwise made.

Homes are wanted for the following children:
8 BOYS Ages, 10, 6 and 4. Brothers, all fine, healthy, good looks. Of good parentage. Brothers 6 and 4 years; English parents, blondes. Very promising, 2 years old, blonde, fine looking, healthy, American; has had his foot straightened. Walks now O. K. Six years old, dark hair and eyes, good looking and intelligent, American.

10 BABES Boys and girls from one month to three months. One boy baby, has fine head and face, black eyes and hair, fat and pretty; three months old. Send two stamps.

REV. M. B. V. VAN ARSDALE,
General Superintendent.

Room 48, 280 La Salle Street, CHICAGO.

FREE...on ninety days trial

ORPHAN CHILDREN HERE FRIDAY

ELEVEN BOYS AND GIRLS FROM
NEW YORK BROUGHT TO
TEKAMAH FOR HOMES

A number of bright young boys and girls ranging in age from one year up to fifteen will arrive in Tekamah Friday morning from New York looking for happy homes among the good people of this city and community.

The little folks will be seen at the Lyric theatre Friday morning at 10:30 and from 1:30 on in the afternoon. The children will be in charge of Alice A. Bogardus, who was in the city last week arranging details for their coming.

The following committee of prominent men are endorsing the movement: Mayor Lukens, H. L. Webster, E. I. Ellis, J. E. Cornish, E. J. Gane and Orville Chatt.

A party of eleven children, all exceptionally bright and well trained and should appeal to many a home in Tekamah.

Charities Lacked Legal Authority to Protect Children

- 1874: 9 year old orphan Mary Ellen Wilson of Hell's Kitchen was abused by her adoptive parents.
- Etta Wheeler, missionary to the poor notices her plight.
- Police took no action.
- Wheeler consulted Henry Bergh, founder of the ASPCA.
- Bergh consulted lawyer Elbridge Gerry.
- Used Habeus Corpus to rescue Mary Ellen Wilson.
- Gerry founded New York Society for the Prevention of Cruelty to Children- 1st Child Protection Agency. Mary Ellen Wilson is 1st recorded child abuse case in U.S.

Reaction to Loss of Charitable Institutions due to the Depression

- State laws addressing the abuse and neglect of children were passed in all 50 states following the 1962 amendments to the Social Security Act that required states to include child protection in their child welfare systems ([Myers, 2008](#)).
- At the same time, the 1962 article “The Battered Child Syndrome” ([Kempe et al., 1962, 1985](#)) gave rise to public concern that many voluntary societies for the prevention of cruelty to children were disappearing, having been largely replaced by government counterparts known today as child protective services agencies.

Child Abuse Prevention & Treatment Act of 1974

- Funded state child welfare programs
- Established state responsibilities for child protection
- Defined abuse and neglect
- Eventually required an advocate for the child – a volunteer or an attorney

Adoption and Safe Families Act of 1997

- Federal Government stressed permanency for the first time.
- Resulted in the 12 month time limit in foster care we have today.
- Increased adoptions but also increased children leaving foster care with no family connections.
- Shortened the “margin of error” for rehabilitation to almost zero.

Foster Care = State Custody

- ❑ Children don't belong in state custody, they belong in families.
- ❑ The state makes a bad parent.
- ❑ Bad things happen to kids the longer they stay in foster care, both physically and emotionally.

HHS Numbers on Foster Care 2015

- 427,910 children in foster care.
- 111,820 children waiting to be adopted.
- 62,378 had rights terminated during previous year.
- 269,508 entered foster care.
- 243,060 exited foster care.

Safety, Permanency and Well-Being are the goals

Foster Children's Project

- Founded in 2001
- Funded by Children's Services Council
- Only full service children's law office in state
- Currently FCP has 14 attorneys, 4 social workers and 6 paralegals.



Foster Children's Project

- Multi-disciplinary: lawyers and social workers
- Holistic representation: educational, medical, immigration, therapeutic issues are addressed
- Permanency goal: achieving permanence within 12 months



Foster Children's Project

- Outcomes: **2700+** clients home/12.5 months length of stay compared to 36 months (up to 65 months for adoption clients) when FCP started
- Evidence based model of representation



Implementation



- Where the rubber meets the road

FCP Child Representation

- Develop a legal strategy
 - Ultimate goal of litigation – get out of state custody!
 - Don't need to follow every directive
- Get to know the “whole” child
 - Spend time with the child
 - Go to their placement
 - Interview family, teachers, placements and specialists
 - Build a relationship

FCP Child Representation

- Expressed Wishes
 - ▣ Empowers child to determine fate, but risks child setting immature or harmful goals
- Best Interests
 - ▣ Substituted judgment
- Client-Centered Representation
 - ▣ Client has a specific legal problem
 - ▣ Client may not completely understand his/her welfare and safety needs
 - ▣ Client can direct representation to some extent

FCP Child Representation

- Lose the ego
 - ▣ Do not expect child to respect you
 - ▣ Have compassion for what child has been through
- Provide stable, calm & consistent representation
 - ▣ Be mindful that actions are consistent with words
- Be Proactive
 - ▣ Identify client's issues
 - ▣ Prioritize based on legal strategy

FCP Child Representation

- Hearings
 - Attend all hearings
 - No written reports as substitute for attendance
 - Strive to be the most informed person in the room
 - Anticipate the problems and be prepared to offer solutions
 - Act like your lead counsel, because you are.

Guiding Representation Principles

- First do no harm – safety first!
- Develop a strategy for permanency within 12 months
- Plan concurrently
- Assess family's needs and advocate for only necessary services

Program Design

1. Low case loads
 - ▣ Goal is 50 children per attorney
2. Initial contact to be made within 2 weeks
 - ▣ Goal: Establish attorney-client relationship
3. Quarterly Case Reviews
 - ▣ Strategizing sessions on difficult cases
 - ▣ No case falls behind
4. Quarterly Client Visit
 - ▣ Build rapport with client/meet them where they are
 - ▣ Be most informed about the client
 - ▣ See each client in each placement

4 Core Advocacy Components

1. Filing of Motions

- To compel compliance with case plan
- Against both parents and agency

2. Filing of Termination Petitions/Recruitment of Adoptive Homes

3. Attendance at staffings and case plan meetings

4. Service advocacy – contact with providers

Which Strategies Impact Outcomes?

□ Prescriptive Case Plans

- ▣ Making sure each case plan is appropriately tailored
- ▣ No junk tasks
- ▣ Interim goal dates

Served to **clarify** the basis of, and thus **expedite**, court decisions concerning parent **and** agency compliance with parent's case plan requirements.

The effect of FCP representation seems to manifest after case plan approval, suggesting it is the influencing of the content of the case plan that serves as the lynchpin for all other efforts.

Zinn, A. E. & Slowriver, J. (2008) *Expediting Permanency: Legal Representation for Foster Children in Palm Beach County*. Chicago: Chapin Hall Center for Children at the University of Chicago ©

Which Strategies Impact Outcomes?

- Active Advocacy
 - ▣ Motions to Compel
 - ▣ Timely TPR
 - ▣ Service Referrals

Evidence Based Program

- Good data management captures everything!
 - Length of stay
 - Impediments to success (ICPC; late appearing parent)
 - Quarterly visits
 - Quarterly case reviews
 - Tracking recidivism
 - Placement changes
 - Services
 - Sibling placement and visits

Funder Report Card: 2016

- **Outcome 1:** Children will not have a verified maltreatment report through a 12 month follow up period.
 - ▣ **Result:** 99.5% of children did not have a verified maltreatment report through a 12 month follow up period.

- **Outcome 2:** Children ages 0 to 12 will have a finalized adoption within 24 months of Legal Aid appointment. (Target: 70%)
 - ▣ **Result:** 81.3% were placed in adoption within 24 months.

Funder Report Card: 2016

- **Outcome 3:** Children 0 to 12 will be reunified with parents/caretakers within 12 months of Legal Aid appointment. (Target: 55%)
 - **Result:** 71.8 % were reunified with parents/caretakers within 12 months of appointment.

- **Outcome 4:** Children who are not reunified or adopted will achieve permanency within 24 months of Legal Aid appointment. (Target: 80%)
 - **Result:** 100% achieved permanency within 24 months of the date of appointment through a permanent guardianship and/or Alternate Planned Permanent Living Arrangement (APPLA).

Advocacy Is The Answer

SHAME ON U.S.

Failings by All Three Branches of Our Federal Government
Leave Abused and Neglected Children Vulnerable to Further Harm

