



**Family  
Inclusion  
Network**

Valuing children  
Partnering with families  
Embracing diversity

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21 January 2025

The Honourable Mr Paul Anastassiou KC  
Commissioner  
Child Safety Commission of Inquiry  
[info@childsafetyinquiry.qld.gov.au](mailto:info@childsafetyinquiry.qld.gov.au)

Dear Mr Anastassiou

### **Call for Submissions: Child protection litigation model and the legal process of applying for and making child protection orders (13 November 2025)**

We are pleased to provide the following in response to the Commission of Inquiry into Queensland's Child Safety System's invitation for public submissions into "**child protection litigation model and the legal process of applying for and making child protection orders**". We appreciate the Commission's tolerance in continuing to accept submissions on all topics in the terms of reference.

#### **The Family Inclusion Network (FIN) Southeast Queensland**

The Family Inclusion Network (FIN) in Southeast Queensland is a network of parents and their allies working to improve the child protection and family support system. FIN aspires to bring together parents with lived (and living) experience, with government and non-government agencies, to work collaboratively on policies and issues that affect families experiencing the child protection system.

The Family Inclusion Network is an activity of Micah Projects.

#### **Child protection litigation model – previous suggestions**

Over the past **six years** around **85 parents** have participated in good faith in numerous workshops and processes on this topic.

- 2019 – workshop with Separate Representatives
- 2020 – workshop with Child Safety, Legal Aid, OCFOS, and ATSILs
- 2021 – session with OCFOS
- **2022 – external review of the litigation model - by Nous (external consultant)**
- 2022 – session with DCPL
- 2022-24 – letters from Qld Parents' Advisory Committee seeking to meet the Attorney-General
- 2023 – papers submitted to Minister
- **2024 – internal government review of the litigation model - by government project team**
- **2025 – call for submissions about the litigation model - by Child Safety Commission of Inquiry**

Parents share some of the most harrowing moments of their lives with the utmost problem-solving focus and trust that their feedback will make a difference. To date no system-level responses have been received. That is why we are optimistic in providing this Submission for the consideration of Commissioner Anastassiou and the Commission of Inquiry.

(We have in the past requested that the reports from the two previous formal reviews (Nous in 2022; and Queensland Government in 2024) to be made public.)

Our 2025/26 Submission comprises:

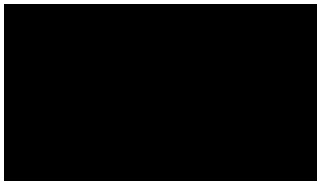
- Part One - A **tabular representation** of the child protection litigation model's **key components** (as currently intended and/or written in legislation and policy). **Parents' examples** are then used to illustrate how these policies are experienced. And finally, **recommendations** and/or **areas for future discussion** are suggested.
- Part Two – A selection of more **recent parents' comments in response to the specific questions** asked by the 2025 call for submissions.
- In addition, we attach the articles, mentioned in our submission, about a successful child welfare legal service-delivery model in the United States:
  - *"A Family-Centered Model of Legal Representation for Parents in Child Protection Cases"*. Trine Bech. 2000. (Child Law Practice Vol. 19 No. 2 April 2000 Helping Lawyers Help Kids) [https://www.americanbar.org/content/dam/aba/publications/center\\_on\\_children\\_and\\_the\\_law/presentation/family\\_centered\\_model.pdf](https://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/presentation/family_centered_model.pdf);
  - *"Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families"*. 2009. (Vol. 28 No. 3 May 2009 Helping Lawyers Help Kids, American Bar Association's Child Law Practice) <https://ww2.nycourts.gov/sites/default/files/document/files/2018-10/cortese.pdf>; and
  - *"Effects of an interdisciplinary approach to parental representation in child welfare"*. 2019. (Children and Youth Services Review. Gerber, Pang, Ross, Guggenheim, Pecora, Miller) <https://www.sciencedirect.com/science/article/pii/S019074091930088X>

In case the Commission does not already have copies of our previous submissions to other reviews, we have also sent these previous papers separately.

We look forward to the opportunity to meet again in the New Year.

In the meantime, please do not hesitate to contact FIN,SEQ [REDACTED] | [REDACTED] [REDACTED] if you have any questions at this time.

Yours sincerely



Jenny Whitworth

**Coordinator**

**Family Inclusion Network (FIN), Southeast Queensland**

An activity of Micah Projects



Family Inclusion Network

Child Safety Commission of Inquiry  
Call for Submissions

*Child protection litigation model and the legal process of applying for and making child protection orders*

## The current Queensland Child Protection Litigation Model – from PARENTS' PERSPECTIVE

January 2026

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Family Inclusion Network facilitates opportunities for parents to be advocates for children and themselves. We resource parents and extended family members to participate and have a voice in the policies and services impacting on the lives of their children, family and community.

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Child Safety Commission of Inquiry

Call for Submissions

Child protection litigation model and the legal process of applying for and making child protection orders

## About this Submission

The submission has two parts:

- Part One (page 11 to 40) sets out the **key components** of the ‘child protection litigation model’ as intended and/or written in government legislation and policy (such as the *Child Protection Act 1999*, the Child Safety Practice Manual, and the Children’s Court’s Child Protection Benchbook). **Parents’ examples** are then used to illustrate how these policies are experienced in reality. Supporting reading and literature references are provided. And finally, **recommendations** and/or **areas for future discussion** are suggested.
- Part Two (page 41 to **Error! Bookmark not defined.**) provides an additional selection of **parents’ comments in response to [the specific questions asked by the Commission in November 2025](#)**.

## About Micah Projects’ partnership with parents

Micah Projects has been working in partnership with parents who have experienced child protection involvement for over 25 years. The organisation has been involved in local, state and national networks and organisations who are committed to seeing parents have a voice, and have access to support and access to fair processes in the decision-making of the child protection system. A shared vision is for parents to be seen as stakeholders in the strategic directions, processes and reform of the legislative, policy and practice frameworks of the responsible department of child safety and families.

Micah Projects for many years was unfunded in this vision, but since 2016 the Family Inclusion Network (FIN) has been funded and has been more actively involved in facilitation of dialogue in Southeast Queensland between parents and government departments, statutory bodies, academic research, and the community sector. Additionally, Micah Projects provides direct family support services from which workers witness the impact of the unfair practices and powerlessness that parents experience.

## About the Family Inclusion Network (FIN), Southeast Queensland

The Family Inclusion Network (FIN), Southeast Queensland is a network of parents and their allies working to improve the child protection and family support system. FIN brings together parents with lived (and living) experience with government and non-government agencies to work collaboratively on policies and issues that affect families experiencing the child protection system. The Family Inclusion Network is an activity of Micah Projects.

Should readers of this Submission wish to contact FIN for more information, we can be contacted via email [info.fin@micahprojects.org.au](mailto:info.fin@micahprojects.org.au) or telephone 3013 6032.

## Contents

Six <i>must read</i> messages.....	4
Summary Table: the Child Protection Litigation Model – from Parents' Perspective .....	5
Recommendations .....	7
What should 'mandatory legal representation' for parents include? .....	8
What is an 'interdisciplinary approach'? .....	9
Part One The CHILD PROTECTION LITIGATION MODEL – from PARENTS' PERSPECTIVE.....	11
1. Purpose of the Child Protection Act   Mandatory reporting   Assessment decisions.....	11
2. Preliminary / Emergent / Temporary Orders – TAO, TCO, CAO .....	16
3. Parties to the Proceeding   Model Litigant Principles .....	20
4. Legal Representation.....	24
5. Longer-term child protection orders.....	27
6. First Appearance.....	28
7. Social Assessment Report   Parental Capacity to Understand Proceedings .....	30
8. Reunification .....	32
9. Permanent Care Order .....	35
10. Other Acts and legal matters .....	36
Part Two PARENTS' RESPONSES TO THE INQUIRY'S QUESTIONS about The Child Protection Litigation Model .....	41

# The current Queensland Child Protection Litigation Model – from PARENTS' PERSPECTIVE

## Six *must read* messages:

- Currently there is a significant **imbalance of power** in the processes that remove children.
- Parents (and their children) need **entirely new models** of legal representation and legal service delivery. We do not believe the necessary improvements can be achieved by modifying the existing system.
- The new model must demonstrate and measure improvements in the **protection of rights of the parent (and the child)** and **hold all parties accountable** throughout. Done in the right way, legal representation and advocacy for parents (both legal and otherwise) will not exacerbate the inherent adversarial nature of the process. On the contrary, we envisage a new model can be **cooperative, rights-based, and build fairness and accountability between parties**.
- Many consider the child protection system's defining characteristic is 'anti parent'. That is, parents have been cast as the enemy or the pariah, while the state and carers are seen as the child's saviour and protector. After 20 years of advocacy, we would like to think this **attitude and culture** is changing. Unfortunately, the gains achieved in recognising and involving parents as stakeholders in Queensland have slowed. While the advancements 'post-Carmody' were significant (the funding of a small systems-advocacy program in Southeast Queensland, the creation and embedding of a statewide Parents' Advisory Committee, and the development of a Charter of Rights for Parents); more recently parents' evidence-based suggestions for improvement have been largely unheeded.
- It is well-known that there have been **three reviews in three years** into Queensland's child protection litigation model. FIN has also held several workshops and meetings with parents and government stakeholders, as well as providing literature. By now the questions and barriers must be familiar; however, there is an inability to make progress on the ideas, innovations, and evidence. The current Inquiry therefore holds **enormous possibility for true transformation**.
- Lastly, we must honour and learn from **the lessons of the past**. For over 30 years Micah Projects has walked alongside adults who, as children, experienced removal and are now living with the lifelong impacts. Parents, families and children have a human **right to family**. If a child is removed from their family, or not able to have contact with their family (for a short or long period), then decision-makers must be accountable for providing **written information about the decision** and the processes, so that everyone can clearly understand **what occurred and why**. These are significant pieces that are often missing for a lifetime (or more). This has been told to us over decades by adults who were children of past removals. It is also what parents tell us today. "Never again" is the hope. Past, present and future – all have the same call for **rights and accountability**. This time there must be change.

## Summary Table: The model, the reality, the recomm

We have constructed most of this Submission around the **Child Protection Litigation Model's** key components (as currently intended and/or written in legislation and policy). **Parents' examples** are then used to illustrate how these policies are experienced. And finally, **recommendations and/or areas for future discussion** are suggested.

Ten Key Components	Excerpts – from Parents' and Services' Reality	Two high-level Recommendations
<p><b>1. The Purpose of the <i>Child Protection Act</i>   Mandatory Reporting   Assessment Decisions</b></p> <p>(See page 11)</p>	<p>A traumatic, perplexing, isolating time:</p> <p><i>"I asked for support..."</i></p> <p><i>"I rang the Department over 60 times..."</i></p>	<p>Currently there is a significant <b>imbalance of power</b> in the processes that remove children.</p> <p>Parents (and their children) need an <b>entirely new model</b> of legal representation. (We do not believe the necessary improvements can be achieved by modifying the existing system.)</p>
<p><b>2. Preliminary / Emergent / Temporary Orders – TAO, TCO, CAO</b></p> <p>(See page 16)</p>	<p>This stage in the legal process is led by the Department of Child Safety and its legal branch: the Office of Child and Family Official Solicitor (OCFOS).</p> <p>In this earliest stage, a fundamental area for improvement in the litigation model is the practice of '<b>unborn child notifications and newborn removals</b>'. (see page 18)</p> <p><i>"I had him, but it was that next morning... they took him... I'm like, where's my son? "oh, you can't see him, you have to wait till you talk to the department"</i></p>	<p>The new new model must demonstrate and measure improvements in the <b>protection of rights of the parent</b> (and the child) and <b>hold all parties accountable</b> throughout.</p> <p>Done in the right way, legal representation and advocacy for parents (both legal and otherwise) will not worsen the inherent adversarial nature of the process. On the contrary, we envisage a new model can be <b>cooperative, rights-based, and build fairness and accountability between parties</b>.</p>
<p><b>3. Parties to Proceeding   Model Litigent Principles</b></p> <p>(See page 20)</p>	<p>During this stage, legal processes move to another government agency, the Department of Justice, and their legal branch: the Director of Child Protection Litigation (DCPL).</p>	<p>Two <b>high-level Recommendations</b> for parents and their children:</p> <p>Parents need a new model of legal representation:</p>
<p><b>4. Legal Representation</b></p> <p>(See page 24)</p>	<p>Parents say the process to get to an Order can take 12-18 months: from '<i>temporary order</i>' to finalisation of a child protection order (if relevant).</p> <p>Parents say that "everyone is bunkered down..." evidence gathering, and going through court processes to get an Order. Then the family's efforts have to shift from keeping the child <u>out of care</u>, to retaining contact visits, a relationship, and reunifying if possible.</p>	<p><b>Recommendation 1</b></p> <p>Implement <b>mandatory legal representation (throughout the process and beyond)</b> to uphold parents' rights and ensure accountability of all</p>
<p><b>5. Longer-term Child Protection Orders</b></p> <p>(See page 27)</p>	<p>While legal representation is the central recommendation in this Submission, it is relevant to note that parents who have experienced the trauma child removal are eligible for very little support from the 'child protection system'. <i>Group parenting courses</i> are usually available, however <b>most individual and family support services stop when the child is removed</b>. These will only recommence when/if reunification plans commence.</p> <p><b>Parents are isolated and unsupported.</b></p>	

Ten Key Components	Excerpts – from Parents’ and Services’ Reality	Two high-level Recommendations
<p><b>6. First appearance</b></p> <p>(See page 28)</p>	<p>Often parents have no legal advice nor representation until this ‘<i>first appearance</i>’ stage in the model (if then). The first appearance can be months into the process.</p> <p><i>“I didn’t realise Child Safety <u>had</u> a legal system”</i></p>	<p>parties.</p> <p>(See page 8)</p>
<p><b>7. Social Assessment   Parental capacity to understand</b></p> <p>(See page 30)</p>	<p>Independent reports are outsourced. They are extremely powerful: advising the court about the best way to protect the child’s best interests. For these Assessments, parents often do not know what they are attending, have not provided informed consent, and have no choice in provider: they must use the court’s listed ‘independent’ assessor.</p>	<p>Parents need a new model of legal service delivery:</p> <p><b>Recommendation 2</b></p> <p>Implement <b>multidisciplinary law offices</b> in the Queensland Community Sector. These would be similar to those in New York City: <b>lawyers</b> work in a team that also includes <b>social workers</b> providing support, and <b>peer workers</b> who are parents with lived experience.</p>
<p><b>8. Reunification</b></p> <p>(See page 32)</p>	<p>There appears to be little consideration of reunification in the ‘child protection litigation model’.</p>	
<p><b>9. Permanent care order</b></p> <p>(See page 35)</p>	<p>In the 2010s systems began putting timeframes on some Orders to address the problem of children drifting ‘in care’ for years. The <u>2017 Victorian Inquiry into their experience of ‘permanency’ implementation</u><sup>1</sup> found an 11% decrease in the number of children reunified with their parents; and growing gaps in case planning, inclusion of family members, provision of documents, and stated plans to parents and families.</p>	<p>(See page 9)</p>
<p><b>10. Other Acts and legal matters</b></p> <p>(See page 36)</p>	<p>After Child Safety exits, families are again left alone and more afraid than ever to seek help, “<i>picking up the pieces</i>” from their experiences. Often there are a range of other legal matters related to the Child Safety investigation: these continue. Ongoing advocacy and support (legal and otherwise) is needed. Family and Domestic Violence court matters, for example, are relevant for a majority of families.</p>	

## Recommendations:

### Two high-level recommendations, eight additional recommendations, and three areas for further discussion

To summarise in another way, Micah Projects' Family Inclusion Network (FIN) submits two *high-level recommendations* for the consideration of the Child Safety Commission of Inquiry. We also submit eight *additional recommendations*; and three *areas for future discussion*.

High-level recommendations	Additional recommendations	Areas for future discussion
<p><b>Recommendation 1</b> - Implement <b>mandatory legal representation (throughout the process and beyond)</b> to uphold parents' rights and ensure accountability of all parties.</p> <p>Currently the Queensland child protection litigation model does not mandate nor adequately fund parents' legal representation.</p> <p>Parents (and their children) need an <b>entirely new model of legal representation</b>. We do not believe the necessary changes can be achieved by modifying the existing child protection litigation system.</p> <p>There is an imbalance of power in the processes that remove children: access to information and representation is not equitable for all parties. Parents' access to their <b>rights</b> and to <b>accountability</b> must be significantly improved to address this imbalance.</p> <p>(See page 8)</p> <p><b>Recommendation 2</b> - Implement multidisciplinary law offices in the Queensland Community Sector.</p> <p>Parents need a <b>new model of legal service delivery</b>. This should be through <b>interdisciplinary (or multidisciplinary) law offices</b> across Queensland. These would be similar to those in New York City: <b>lawyers</b> work in a team that also includes <b>social workers</b> providing support and <b>peer workers</b> who are parents with lived experience.</p> <p>This model would be <b>block funded</b> and delivered by community legal centres and/or First Nations' legal services; they would be co-located with a non-government family support service.</p> <p>(See page 9)</p>	<ol style="list-style-type: none"> <li>i. <b>Merit and means tests should not be applied to parents involved in child protection matters</b> (in the same way as they are not applied to the child in proceedings). (Page 20)</li> <li>ii. The selection, allocation and use of <b>independent assessors</b> should be improved with a 'preferred supplier' panel of providers who are subject to regular standard quality reviews. This would also allow choice for parents. (Page 30)</li> <li>iii. <b>Specialist legal services</b> are non-negotiable parts of the system: services such as Women's services, youth services, Aboriginal and Torres Strait Islander services, and services for people with disability. (Page 30)</li> <li>iv. There must be full commitment to the Child Protection Act's principle that <b>family (and therefore reunification) must be the focus</b> of the child protection system and the litigation model. Also to use the '<b>least intrusive</b>' options, and to provide families with <b>post-reunification support</b> so the family can heal from their experience. (Page 32)</li> <li>v. The department should regularly publish detailed <b>performance data in relation to reunification</b>. (Page 32)</li> <li>vi. Legal representation should support parents, <b>at any stage</b>, to access their rights and processes in line with the <i>Charter of rights for parents involved with the child protection system in Queensland</i>. (Page 39)</li> <li>vii. The <i>Charter of Rights for Parents</i> should be <b>legislated and fully implemented</b> to embed parents' rights. (Page 39)</li> <li>viii. New or amended <b>early resolution or alternative dispute resolution</b> processes must involve and consult parents in a <b>genuine co-design of new model/s</b> - from the design stage through to implementation and evaluation. (Page Error! Bookmark not defined.)</li> </ol>	<p>We would be happy to join future discussions on these areas:</p> <ul style="list-style-type: none"> <li>• <b>Family support</b> is a vital topic if the State is committed to the best interests of the child, now and for the rest of their life.</li> </ul> <p>There are many possible systems, approaches, and models that would reduce costs to the taxpayer over time, improve outcomes for children living with their families, and reduce the lifelong health burden of trauma that results from the removal of children.</p> <p>(See page 11)</p> <ul style="list-style-type: none"> <li>• <b>Mandatory reporting</b> inevitably increases the load on child protection systems with finite resources: the more time spent on reporting (followed by investigation), the less time spent on earlier practical support.</li> </ul> <p>We are interested in what evidence links mandatory reporting and the resulting increased reporting numbers, with improved long-term child outcomes. Child protection system 'performance data' still appears to focus on counting outputs and throughput rather than impact and long-term outcomes.</p> <p>(See page 14)</p> <ul style="list-style-type: none"> <li>• <b>Unborn child notification and newborn removals</b>. Appropriate and immediate legal representation is critically important at the point of an 'unborn child' notification and/or newborn removal.</li> </ul> <p>(See page 18)</p>

**Recommendation 1** - Implement **mandatory legal representation (throughout the process and beyond)** to uphold parents' rights and ensure accountability of all parties.

## What should 'mandatory legal representation' for parents include?

Below is a summary of features that parents and service providers have suggested to FIN over time. Features include eligibility, funding programs, longevity and core purpose. Alongside these are workforce characteristics needed to be present in the legal services: such as person-centred and trauma-informed approaches.

### Solution: Features of 'mandatory legal representation' for parents

Throughout this paper, wherever we refer to *parents' need for mandatory legal representation*, we mean the following.

Parents need mandated legal representation that is:

- a) **pro-actively** provided legal **representation** not just legal advice
- b) available with **fewer eligibility tests** (merit, means, conflict) eg. block funded
- c) focused on the Act's principle that **reunification** must be the focus, and use the "**least intrusive**" options
- d) available for parents with concerns about **reviewable decisions** and/or **independent assessments** (such as social assessments)
- e) **provided throughout** - from the **earliest** possible opportunity (earlier than current practices suggest that legal representation is needed)
- f) accessible for **other related legal matters** - lawyers could represent parents in **any aspect of court proceedings that arise from the child protection matter** (such as common assault charges, or Domestic and Family Violence matters)
- g) **ongoing** - legal representation remains until **after the 'Child Protection litigation' process is over** (because, after Child Safety exits, families are "picking up the pieces" from their experiences; they are also often progressing with **Family Law** or other **legal matters that were intertwined with the child protection allegation**)
- h) a **consistent person or team** throughout
- i) obligatory and immediate at the point of an **unborn child notification**
- j) **person-centred, trauma-informed** and the **workforce is appropriately trained** as such

The **system / sector** that provides mandated legal representation ensures:

- k) **redistributed funding** - the model would be **funded differently to current legal funding**
- l) **specialist legal services** - such as women's services, youth services, Aboriginal and Torres Strait Islander services, and services for people with disability - are non-negotiable parts of the system
- m) **accessibility across the State** - meeting the needs of parents in regional, rural and remote areas through **community legal centre partnerships** and/or **First Nations' Legal Services**
- n) **interdisciplinary (or multidisciplinary) law offices** are the standard: where **lawyers** work in a team that also includes **social workers** providing support, as well as peer **workers** who are parents with lived experience providing advocacy
- o) the model is based on **human rights** and adheres to **administrative process** in line with the Child Protection Act as well as departmental practice frameworks

## Recommendation 2

Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

## What is an 'interdisciplinary approach'?

Parents need a new model of legal service delivery. The following excerpt focuses on **one model** operating in three non-profits across New York City.

We are aware that a small number of similar models operate elsewhere, including but not limited to Western Australia ([Ruah Community Services](#)) and in the United Kingdom. (In England after the most recent review, parent advocacy legal services akin to those in the US were recommended. Parental Advocacy services are being used in some parts of England, but they are still relatively new).

**In 2026 there is a clear opportunity for Queensland to be lead in this area internationally because of the many existing reviews and recommendations that cite the need for interdisciplinary legal services and/or recommend this model, including but not limited to:**

- Scotland - a recent Scottish report that cited “a concerning scarcity of solicitors with the capacity to advise and represent birth parents in legal proceedings... Such services are urgently needed and require sustainable resourcing, not least in terms of time.”<sup>ii</sup>
- Europe - a 2024 Dutch paper examined the “justification of the out-of-home placement and therefore the separation of a parent and a child” as assessed by the European Court of Human Rights (ECtHR). In recent years, the involvement of parents and children has become more and more important in the case law <sup>iii</sup>
- England - a three-year study is examining current programs of this kind: [The Nuffield Foundation’s research](#) will conclude in July 2026<sup>iv</sup>

## Case Study: Interdisciplinary approaches to legal representation for parents in child protection systems (New York City)

In 2007 the New York City Mayor’s Office of Criminal Justice funded three non-profit organisations to provide “interdisciplinary legal defence for parents”. We refer to these offices collectively as “interdisciplinary law offices” or “multidisciplinary offices”. The organisations are:

- the **Center for Family Representation** (who also have developed and provide training to professionals in their “[Cornerstone Advocacy model](#)”)
- the [Family Defence Practice](#) of **Brooklyn Defender Services** (formerly Legal Services New York City), and
- the [Bronx Defenders](#)

Interdisciplinary law offices include a **lawyer**, a family support **social worker**, and a **parent peer worker** with lived experience of the system.

## Case Study: Interdisciplinary approaches to legal representation for parents in child protection systems (New York City)

In 2019, a large published study showed that “multidisciplinary representation reduced children’s time in foster care by nearly four fewer months during the 48 months following the petition filing, through faster early reunification outcomes, as compared to parents who were represented by solo practitioners”<sup>v</sup>.

“The study revealed four principal qualities of the work performed by the interdisciplinary law offices that help explain the success achieved by these offices in their representation of parents.

- Uniform high-quality representation: The interdisciplinary law offices engage in **uniformly high-quality representation**, as characterized by development of a case theory and legal strategy for adjudication, and advancement of other client objectives and issues that support reunification (eg. litigation to increase visitation).
- Interdisciplinary representation: A second key factor in the success of the interdisciplinary law office model is that **most parents are represented by a lawyer along with a social worker and/or parent advocate**. While the legal staff address in-court representation, social work staff support the parent outside the courtroom, including advocating for parents at agency conferences, assisting parents to enrol in court-ordered programs, and otherwise attending to their needs.
- Careful attention to the parent’s emotional well-being: Another factor found by the study is the degree to which the interdisciplinary offices pay attention to the client’s emotional well-being throughout the case. **Parent advocates, in particular, occupy a unique position, bringing their own personal experience to the parent’s situation**. The interviews revealed how often parents felt supported.
- Equal attention is paid to court appearances and agency meetings: A defining quality of interdisciplinary practice is to have a **social worker or parent advocate accompany parents to meetings and conferences with the child welfare agency**. This meant that parents rarely need to face these conferences alone, which parents state is a positive; it also changes the results – the presence of an advocate shifts the dynamic of the conference and ensures that the parent’s voice will be heard.<sup>vi</sup>

Source: Guggenheim, Martin, Gerber, et al, *Understanding the Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare*. 2020.

### Read more about interdisciplinary law offices:

- Understanding the Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare. (2020) <https://www.sciencedirect.com/science/article/pii/S0190740920304643?via%3Dihub>
- Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families (2009) <https://toolkit.parentadvocacy.net/wp-content/uploads/2020/10/Cornerstone-Advocacy-Article.pdf>
- American Bar Association website - Representing Parents [https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/article\\_collections0/representing\\_parents/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/article_collections0/representing_parents/)
- In Western Australia – Ruah Community Services – specialist legal services - <https://ruah.org.au/services-support/specialist-legal-services/>
- Programs focussed on the court and legal system – page 53-55 – A necessary engagement: an international review of parent and family engagement in child protection. Mary Ivec / Anglicare Tasmania. <https://www.anglicare-tas.org.au/research/a-necessary-engagement-an-international-review-of-parent-and-family-engagement-in-child-protection/>

## Part One

### The Child Protection Litigation Model – from Parents’ Perspective

Part One of this Submission sets out the **key components** of the ‘child protection litigation model’ as intended and/or written in government legislation and policy (such as the *Child Protection Act 1999*, the Child Safety Practice Manual, and the Children’s Court’s Child Protection Benchbook). **Parents’ examples** are then used to illustrate how these policies are experienced in reality. Supporting reading and literature references are provided. And finally, **recommendations** and/or **areas for future discussion** are suggested.

#### 1. Purpose of the Child Protection Act | Mandatory reporting | Assessment decisions

	Component	Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
1.1	<p>The Child Protection Act 1999 (the Act)</p> <ul style="list-style-type: none"> <li>• Purpose and Principles of the Act</li> <li>• The Paramount Principle</li> </ul>	<p>The main principle for administering the Act is that the <b>safety, wellbeing and best interests of the child, both through childhood and for the rest of the child’s life</b>, are paramount.</p> <p>The Department of Justice and Attorney-General’s <i>Child Protection Benchbook</i><sup>vii</sup> states “being a child in the child protection system can be a traumatic experience, with long lasting effects that could impact upon them for the rest of their lives. Decisions in this jurisdiction should not be taken lightly and the interests of the child should always be put first.” (p.13)</p>	<p>As written, the Queensland Child Protection Act’s purpose is broader than what the responsible agencies, practices, and funding currently enable and enact.</p> <p>The Act discusses the best interests of the child, with their family having primary responsibility for their upbringing, and the Act stipulates that <b>the family should be supported if a child is removed</b>.</p> <p>Despite this legislative requirement, successive governments and administrations have consistently failed to substantively respond to parents’ calls for <b>better early intervention and family support</b>.</p> <p>The Department has repeatedly stated that their role is “tertiary”.</p> <p><b>Families’ ability to live and thrive with their children</b> is impacted by their access to (or lack of access to) a broad range of services. The number of services – and the constraints places on them – also impacts the way services can operate when working with families involved with the Department.</p> <p>The issues faced by families are well known: including access to housing, crisis homelessness services, domestic and family violence services, healthcare, disability support, early years education, support through the education systems, and parental access to education, employment and training.</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
1.2	<p>"Other guiding principles" of the Act</p> <p>"Other guiding principles" of the Act include:</p> <p><b>Section 5B -</b> ...</p> <p><b>b) A child's family has primary responsibility</b> for their upbringing, protection and development</p> <p><b>c) The preferred way of ensuring a child's safety and wellbeing is through supporting the family</b> ...</p> <p><b>f) If a child is removed from their family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family</b> if the return is in the child's best interests ...</p> <p><b>k) A child should be able to maintain connection with parents and kin</b> if appropriate ...</p> <p><b>(m) a delay in making a decision in relation to a child should be avoided,</b> unless appropriate for the child;</p> <p><b>(n) a child has the right to express the child's views</b> about what is, and is not, in the child's best interests</p>	<p><i>"I rang the department and QPS over 60 times in two months... to start protective parenting... the burnout and problems happen so quickly... and by the time you get to that point, months later – you just can't anymore. Then they took two undiagnosed children."</i> (parent, 2025)</p> <p><i>"... I asked for support... realising I didn't quite have the stamina to be everything that my [children] needed. ... I had become our only productive support network. I had the whole world on my shoulders... and when I crumbled underneath it, they took my children away."</i> (parent, 2022)</p>

### Area for Future Discussion – Family Support and Early Intervention

There is significant evidence that, in supporting families and protecting children safely, the child protection system should not operate as a silo.

Despite many inquiries in Queensland, nationally and internationally a pathway forward for greater collaboration and coordination to support families earlier to prevent unnecessary removal of children has made limited progress. In over 20 years of advocacy, we have learned there is no appetite to prioritise investment in early intervention and/or shift investment away from the tertiary agency. Now is an important time to address this long-standing systemic deficit.

We recognise the current ‘cost of living crisis’ (with a changing economy, growing privatisation of some services, and population growth) is creating further challenges for government as they seek to provide universal services to all citizens. **More family support services are however a non-negotiable priority.**

Family support and specialist services (that are truly prevention and early intervention-focused) work with families to address the stressors in their lives that can become the root causes of family instability.

Family support is a vital topic if the State is committed to the best interests of the child, now and for the rest of their life.

There are many possible systems, approaches, and models that would reduce costs to the taxpayer over time, improve outcomes for children living with their families, and reduce the costly lifelong health burden of trauma that results from the removal of children.

Further examination and discussion are needed.

#### Prompts for discussion:

- **Legislative reform** – Might (further) policy and practice reform enable the current *Child Protection Act* to better able to achieve its purpose (the *safety, wellbeing and best interests of the child, both through childhood and for the rest of the child’s life*)?
- **New legislation** – Alternatively might a **new, stand-alone ‘family support Act’** be required to deliver the necessary family support and specialist services? Micah Projects has previously advocated for a new Act to focus on earlier supports and services to families. Some other jurisdictions have implemented this. Consideration may be warranted now.
- **Additional, quarantined budget allocation** – It is clear that additional funding is needed for early intervention and family support, separate from the Department of Child Safety. The funding must be quarantined from the Child Safety tertiary function so that it is not repeatedly subsumed into crisis work, as has occurred many times before. Overtime these investments would begin to address the current skyrocketing expenditure on alternative care.

**Read more:**

- [“Overview of the Family First Prevention Services Act” 2025](#). The Annie E Casey Foundation<sup>viii</sup>.
- In Australia, Victoria has two Acts: the [Children, Youth and Families Act 2005](#) (CYFA) for child protection intervention, services, and care orders; and the [Child Wellbeing and Safety Act 2005](#), for broader, *universal prevention* and information sharing for *all* children – including reforms like Child Safe Standards and the Child Information Sharing Scheme (CISS).

We look forward to a future discussion about this topic.

## Mandatory reporting | Assessment decisions (Cont.)

	Component	Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
1.3	<p><b>Mandatory reporting</b></p> <p>13E Mandatory reporting by persons engaged in particular work</p> <p>(a) a doctor; (b) a registered nurse; (c) a teacher; (d) a police officer who ..., is responsible for reporting under this section; (e) a person engaged to perform a child advocate function...; (f) an early childhood education and care professional.</p>	<p>‘Mandatory reporting’ of child abuse refers to the legislated duty held by certain occupations and roles to make report (or notify).</p> <p>Over the past decades successive reviews of societal and institutional failures to protect children have resulted in further increases in the number of occupations and roles being added to the mandatory reporting regime.</p>	<p>A ‘reasonable person’ might consider mandatory reporting as an effective way to increase safety for children by providing ‘early detection’, clarity, structure and obligation.</p> <p>However current evidence seems to suggest there is a limit to the benefit of mandatory reporting, and that more reporting is not necessarily better. “...recent experiences with expanded mandatory reporting in Pennsylvania have highlighted a host of unintended consequences, with no evidence of improved outcomes for children” (Raz, 2020<sup>ix</sup>).</p> <p><b>Unintended negative consequences</b> can include:</p> <ul style="list-style-type: none"><li>· mandatory reporting has played a part in the increased volume of notifications over time, and the resulting pressures on the system</li><li>· the reporting credo is “if in doubt – report”</li><li>· families can become increasingly distrustful of government, health and support workers (assuming they will “report them” for any vulnerability)</li><li>· help-seeking is reduced as distrust grows, which in turn impacts the effectiveness of support or therapeutic work</li></ul>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
<p>13F Mandatory reporting relating to children in care</p> <p>(Child Protection Act 1999)</p>		<ul style="list-style-type: none"> <li>parents speak of instances where Domestic and Family Violence or other conflicts lead to 'vexatious' notifications made to mandatory notifiers (with the knowledge that they are mandated to report)</li> </ul> <p>Mandatory reporting negatively affects some parents and families more than others (parents with a low fixed income, First Nations parents, parents with a disability, parents with a language, religion, culture, or background that differs from the mainstream for example). Universal instruments such as mandatory reporting are not applied nor responded to in a neutral way because they exist alongside biases in the system and organisational cultures.</p> <p><b>Parents with Disability</b></p> <p>For <b>parents with disability</b>, for example, a mandatory notification often does not lead to the right response for the child or family:</p> <ul style="list-style-type: none"> <li><i>"... [some] workers' experiences of the interaction between their clients and child protection services are extremely negative... As a result, some workers [if there is discretion] are very reluctant to report abuse because they perceive the response of child protection services to be poor."</i><sup>x</sup> (Mandatory Reporting of Child Abuse and Marginalised Families. 2015)</li> </ul> <p><b>Parents with disability</b> have consistently told us they need a trusted, consistent service and access to early practical support and resourcing. It is not helpful when parents avoid support for fear of "being reported".</p> <ul style="list-style-type: none"> <li><i>"... early mandatory reporting is not effective in ensuring an adequate response for parents with disability and their children. For example, "Pre-birth notifications for <b>parents with disability</b> should not go to child protection - they should go to a specialist disability coordinator to get help and training early".</i><sup>xi</sup></li> </ul>

## Recommendations or Areas for Future Discussion – Mandatory reporting

### Area for Future Discussion – Mandatory reporting

Mandatory reporting inevitably increases the load on child protection systems with finite resources: and, the more time spent on reporting (followed by investigation), the less time spent on earlier practical support.

“Reporting on” families is a reactive, often hands-off approach. Families need a proactive approach.

We are interested in what evidence links mandatory reporting, and increased reporting numbers, with improved long-term child outcomes. Child protection system ‘performance data’ still appears to focus on counting inputs (eg. number of workers, or funding quantum), outputs (eg. number of reports, assessment decisions) and throughput (eg time taken) rather than impact and long-term outcomes.

We look forward to a future discussion about this topic.

## 2. Preliminary / Emergent / Temporary Orders – TAO, TCO, CAO

Component		Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
2.0	Applications to the Court:  Preliminary Orders / Emergent Orders  · Temporary Assessment Order (TAO)	A Temporary Assessment Order (TAO) is a short-term order as part of an investigation to assess a child’s protection needs <b>where the parent/s’ cooperation or consent is not forthcoming, or it is not practicable to obtain</b> such consent.  For a Temporary Custody Order (TCO) - a Magistrate can also decide an application <b>without notifying the child’s parents</b> or hearing them on the application. (p41)	FIN has never heard parents say they were made aware of the legal processes and expectations. It is of course very likely there <i>was</i> an attempt to convey this information however, the parent is experiencing acute stress and trauma at this moment and therefore has a diminished ability to understand and retain information.  As written, the procedures for ‘preliminary orders’ heavily advantage ‘the system’ and disadvantage the parents. Cooperation and consent need only be attained “if practicable”.  Intrusive removal orders are taken if the assessment work is likely to take “more than 3 days”. (How long the work will take is dependent on many factors including staffing,

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
<ul style="list-style-type: none"> <li data-bbox="185 228 465 292">· Temporary Custody Order (TCO)</li>   <li data-bbox="185 411 521 475">· Court Assessment Order (CAO)</li> </ul>	<p data-bbox="555 228 1059 547">A Court Assessment Order (CAO) - authorises actions necessary as part of an investigation to assess whether a child is in need of protection <b>if the consent of a parent has not been obtained or it is not practicable to obtain that consent</b> and more than 3 days is necessary to complete the investigation and assessment. (p.43)</p>	<p data-bbox="1081 228 2089 292">training, workloads, and resourcing: however it is the family who ultimately bear the impact.)</p> <p data-bbox="1081 331 2078 395">When a child is removed, the parent is left not knowing what they can or should do. They are not offered support and often there is no clear pathway for reunification.</p> <p data-bbox="1081 435 2078 547">Despite good intentions, the statutory child protection workforce cannot play two roles: they cannot be the decision-maker about the removal of children and also be the trusted family support worker for the parents and family as a whole.</p> <p data-bbox="1081 587 2101 794">Cooperative, and empathic relationships are needed. Parents need to know what happens with the information that they share and how it is translated into evidence and court proceedings. Parents seek clarity on the <b>purpose of departmental worker's role</b>. Many parents have felt betrayed when information they have shared about their life becomes 'evidence for the prosecution'. This may be improved by clarity about roles and processes.</p> <p data-bbox="1081 834 2112 930">Commonly, parents say they have moved from a 28-day order to a 12-month or 2-year order without adequate legal representation or an understanding of why such an order has been made.</p> <p data-bbox="1081 978 2112 1153">In the litigation model, we note that in this example (where there is an extension of time and escalation of orders) the family's matter also shifts from the Department of Child Safety and OCFOS, to the Department of Justice and DCPL. While this must add time, cost and complexity – parents are rarely aware of the two legal branches and the many-person processes that are taking place behind the scenes.</p>

## Key Evidence: Unborn child notifications and newborn removals

The Australian Institute of Health and Welfare (AIHW) Child Protection Australia series<sup>xii</sup> and others cite increasing numbers of families being reported to child protection services as ‘unborn child notifications’ or ‘unborn child reports’. The Queensland Family and Child Commission states “each year, about 1,500 unborn children in Queensland are the subject of CPNs. Among the Australian states and territories Queensland has the second highest number of Aboriginal and Torres Strait Islander children subject to unborn reports.”<sup>xiii</sup>

We consider this **one of the most significant areas for improvement in the litigation model**, and in child protection practice more generally.

*“I had him, but it was like... next morning.... they took him. They took him and then I had just a panic attack... Where's my son? I want to see my son. And she said, well, that's not going to happen. You're not going to be able to see your son. We're going for a temporary order. So it's like a three-day order. You need to do a drug test. Then we'll talk about you seeing your son.”*  
(Parent, 2025)

A chapter of the most recent Child Death Review Board Report 2024-25 focuses on the processes where families are reported during pregnancy and in the period following birth: the report describes it as “a profound rights question: getting the right balance between “protection” and prevention”<sup>xiv</sup>.

It is important to note that data also shows that younger children often **stay longer in care**. This may be for a range of reasons, including placement policies and suitability for foster care. Due to their age they may be seen as a priority for both intervention and for placement seeking work. Perhaps because of this prioritised placement work, many younger children are then considered to be in a ‘safe and stable’ placement. Visitation and reunification work is then less urgent and time passes. A “placement” is not family.

The practice of newborn removal was common enough to have been suggested by parents as a specific stand-alone right when they were consulted on the development of the *Charter of Rights for parents involved with the child protection system in Queensland*.

- **“4. Protection of Family**  
*Your right to protection of families and children (section 26) Families are entitled to protection. Families are the fundamental group unit of society and are entitled to be protected by society and the State. Queensland’s Human Rights Act 2019*
- **4.4. acknowledging childbirth is a sacred experience** — *bonding (including breastfeeding) is an important time for the child and you have the right to fully experience it together”* (page 8)

*“The removal of babies at birth or early in their life results in a disconnection from their family, community, country and culture, with serious detrimental impacts on their physical, mental, emotional, social and spiritual health and wellbeing, both in the immediate sense and over the course of their lifetime. Separated mothers and babies are*

## Key Evidence: Unborn child notifications and newborn removals

*deprived of the opportunity for skin-to-skin contact, breastfeeding, bonding, and early mother-infant attachment, all critical for an infant's physical, cognitive, sensory and relational development. Once lost, this unique period of time in the life of a child and family cannot be recovered.”<sup>xv</sup>*

Healing the Past by Nurturing the Future - Emerging Minds (2019).  
Qualitative systematic review and meta-synthesis of pregnancy, birth and early postpartum experiences and views of parents with a history of childhood maltreatment. <https://doi.org/10.1371/journal.pone.0225441>

### Recommendations or Areas for Future Discussion – Preliminary, Emergent, or Temporary Orders – TAO, TCO, CAO

**Recommendation 1** - Implement **mandatory legal representation** (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.

**Area for Future Discussion – Unborn child notifications and newborn removals:** Appropriate and **immediate legal advocacy and representation** is critically important at the point of an 'unborn child notification'.

We do not intend to construct an overly adversarial, legalistic environment at such a time however, as Robyn Sweet KC, the Senior Counsel Assisting the Commissioner has said, *“it is hard to imagine a more drastic action from the State than to remove newborn children from their mother's breast – while the mother and child are being cared for in hospital...”* . Therefore until such time as appropriate, community-based multidisciplinary support is available to families – legal protection of their rights is imperative.

In regard to First Nations families, we defer to recommendations from Community Controlled organisations such as the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) which may include, but not be limited to:

- investment in the community controlled sector as the primary means of support and casework
- dedicated specialist positions focused on perinatal cases
- collective decision making

We look forward to participating in future discussions.

### 3. Parties to the Proceeding | Model Litigant Principles

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
3.1	<p>Parties to the Proceeding</p> <p>Despite the legal branches, roles and personnel currently built into the litigation model, the formal <b>'parties to child protection proceedings'</b> number just three:</p> <ul style="list-style-type: none"> <li>· The applicant (the State of Queensland)</li> <li>· The respondent parents; and</li> <li>· The child.</li> </ul>	<p>Legal representation is <b>not equitably accessible to all parties</b>.</p> <p>For parents several eligibility criteria reduce their access to legal representation.</p> <ul style="list-style-type: none"> <li>· a <b>means test</b> – some parents say they need to choose between employment and retaining eligibility for their lawyer; other parents with low fixed incomes do not qualify because, for example, they have inherited their home</li> <li>· the <b>merit test</b> - parents say they often do not satisfy this test as it is widely assumed that “the State will win”</li> <li>· <b>conflict of interest</b> is another frequent reason for the rejection of Legal Aid in-house representation applications</li> </ul> <p><b>Fathers</b> – ‘conflict of interest’ often impacts partners. A recent Scottish report that cited “a concerning scarcity of solicitors with the capacity to advise and represent birth parents in legal proceedings” also noted that “fathers are less likely to be represented through professional advocacy in pre-proceedings in England or to be fully involved in these processes... Leading the authors to <b>call for far greater support for birth fathers, not to the diminishment of services for mothers, but alongside and in addition...</b>”</p> <p>“Supporting fathers and mothers cannot be seen as a zero-sum game, where service development for one necessarily diminishes or sits in opposition with the other... we are arguing for the development of services that <b>hold men equally accountable for the safe care of children and avoid positioning women as disproportionately responsible for children’s welfare</b>. Such services are urgently needed and require sustainable resourcing, not least in terms of time.”<sup>xvi</sup></p>

## Parties to the Proceeding

As stated, in the current litigation model, the formal ‘**parties to child protection proceedings**’ number just three: the applicant (the State of Queensland), the respondent parents, and the child. For parents the avenues for legal advice, representation and support are restricted by funding, eligibility criteria, and practitioner skill deficits. Avenues for the two other parties appear to be less challenging.

### Who Represents “the Child”?

A child can be represented by:

- a **separate representative** - makes recommendations to the court about what they think is in the child's best interests. This may be different from what the child wants. The separate representative may decide to have a report called a social assessment report prepared.
- a **direct representative** - an older child may instruct their own lawyer (called a direct representative) to appear in court to represent their wishes or views, if able to be ascertained; and
- a **Child Advocate** - can also support a child to express their views and wishes to the court.

#### Grant of Legal Aid funding

If a child or young person wishes to be **directly represented**, they can apply to Legal Aid for a lawyer to be appointed (with the assistance and support of a trusted adult if needed). Young people under the age of 18 years **are not subject to a means test** and, in many cases, young people will be able to obtain a grant of aid for initial advice and consideration of their matter (**currently if the young person is the subject of an out of home order they also satisfy the merit test**).” (pg. 62)

### Who Represents “the Applicant” (the State of Queensland)?

At different times, the State is represented and/or supported by:

#### **The Office of the Child and Family Official Solicitor (OCFOS)**

*Department of Child Safety*

The Office of the Child and Family Official Solicitor (OCFOS) **provides child safety service centre staff** with early legal advice and representation for child protection matters. They help improve the quality of the material prepared by Child Safety for Court, and improve decision-making about what should happen to keep children safe.

#### **Director of Child Protection Litigation (DCPL)**

*Independent statutory agency within the Department of Justice portfolio*

The main purpose of the DCPL is to apply for child protection orders **on behalf of the State of Queensland** and to conduct the resulting legal proceedings in the Children’s Court of Queensland.

#### **Crown Law**

*Department of Justice*

Crown Law is the Government’s own legal unit: it is not typically part of the child protection litigation process, however Queensland government departments and agencies may use Crown Law services for certain categories of law.

## Model Litigant Principles

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
3.2	Model Litigant Principles	<p>'Model litigant principles' state that"</p> <ul style="list-style-type: none"> <li>- "fairness will be achieved when litigation is conducted promptly, efficiently, consistently and proportionately and in a manner that does not take advantage of another party's limited financial or other means"</li> <li>- Child protection proceedings are "unique and should not be conducted in a manner that is overly adversarial"</li> <li>- Similarly, court outcomes "should not be thought of in terms of 'winning' or 'losing' the case." (Benchbook, p.32)</li> </ul>	<p>The reality appears to be the opposite of the 'model litigant principles'.</p> <p>Parents say they are <b>denied legal representation</b> or the lawyer will indicate they "do not have a chance - and side with the Department".</p> <p>The processes are not <b>prompt nor efficient</b>.</p> <p>Many parents have significant vulnerability that impact what they understand, what they consent to, and how they behave – all of which can be misinterpreted to support a position by the Department on what is in the best interest of the child. The trauma of being removed from a parent can significantly effect the overall wellbeing of the child now and across their life course.</p> <p><i>"It was meant to be six weeks – it took two years."</i> (Parent, 2024)</p> <p><i>"Parents are required to meet strict time limits and requirements, but child safety, foster carers and lawyers seem to not be held to the same standards."</i> (Parent, 2024)</p>

### Recommendations or Areas for Future Discussion – Parties to the Proceeding | Model litigant principles

**Recommendation 1** - Implement **mandatory legal representation** (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.

**Additional recommendation 'i'** – **Merit and means tests should not be applied** to parents involved in child protection matters (in the same way as they are not applied to the child in proceedings).

## Key Evidence: Caution against applying additional eligibility tests and thresholds

A 2024 Dutch paper examined the “justification of out-of-home placement and therefore the separation of a parent and a child” as assessed by the European Court of Human Rights (ECtHR). It looked at both **substantive obligations** (does it serve to protect the interests and is it necessary in a democratic society), and **procedural obligations** (are parents and children given the *opportunity to effectively participate in the decision-making* process that led to the out-of-home placement).

“The distinction between substantive and procedural obligations is not always easy to make: they can overlap and influence each other. It is, however, important in each case to make sure which obligations are violated because this determines the nature of the failure of the state.”

The paper goes on to say that the right to legal representation has only become increasingly important in the case law of the ECtHR in the last decade.

“During the last couple of years the involvement of parents and children has become more and more important in the case law of the ECtHR about the separation of parents and children due to an out-of-home placement. According to the ECtHR, *sufficient involvement* of parents and children in placement procedures means that parents must be **able to fully present their case, which in practice means that they should have access to legal representation.**”<sup>xvii</sup>

But the ECtHR summarised, in *Soares de Melo*, that a parent has a right to legal representation *when certain criteria exist*. This has led to complexity and uncertainty about ‘when a case meets these criteria?’.

For Queensland, it may therefore be reasonable to **caution against applying additional eligibility tests and thresholds** to parents’ right to legal representation. This would increase cost, complexity, uncertainty and time. It would also reinforce the current power imbalance.

## 4. Legal Representation

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
4.0	Legal Representation	<p>The Court has an obligation to:</p> <ul style="list-style-type: none"> <li>ensure, as far as practicable, that the child's parents and other parties (including the child, if present) <b>understand the nature, purpose and legal implications</b> of the proceedings and any order or ruling of the court</li> <li>the child, the child's parents and other parties <b>have a right to appear</b>, and they <b>may be represented by a lawyer</b></li> <li>where a parent appears in an application for a child protection order and is not represented, the Court may continue with the proceeding only if it is satisfied the <b>parent has had reasonable opportunity to obtain legal representation.</b> (p.29,51,96)</li> </ul>	<p>Currently the Queensland child protection litigation model <b>does not sufficiently support parents' right to legal representation.</b> Parents do not have <i>"reasonable opportunity to obtain legal representation"</i>.</p> <p>In theory, Legal Aid funding, representation, and/or lists of lawyers are available to parents.</p> <p>In reality, lawyers with expertise and experience in child protection are rare; and there is not enough Legal Aid an/or Community Legal Centre funding.</p> <p>For example - if a parent in southeast Queensland contacts Legal Aid, they may be emailed a list of 20 possible legal services. Less than half of these will be found to currently offer child protection services. From there, actual availability and experience of lawyers will further reduce the pool to perhaps two or three. Parents in regional, rural and remote parts of the state will likely not have options.</p> <p>Legal representation is, of course, a human right however particular legal service delivery models have also been demonstrated to <b>improve outcomes for children and families.</b></p> <p>We reject the view that increased legal representation would create an overly 'adversarial' approach. To the contrary we envisage a service model that can be cooperative, rights-based, and build fairness and accountability between parties.</p>

**Recommendation 2** - Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

### Why this Matters

Under the *Human Rights Act 2019*, all Queenslanders have the right to:

- recognition and equality before the law (section 15)
- a fair hearing (section 31)

In Queensland’s child protection system, however, parents’ human rights and the aspirations of the ‘model litigant principles’ are not currently operationalised. As stated throughout this Submission, parents need better access to legal representation. A new model of legal service delivery should be implemented in Queensland that features multidisciplinary teams focused on supporting parents. This model should be **block funded** through community legal centres and/or First Nations’ legal services and co-located with support services. (In the US these innovative court programs are both “encouraged through legislation and **rewarded through demonstration grants**”<sup>xviii</sup>.)

### Examples of interdisciplinary legal services:

- In **Western Australia** [Ruah Community Services](#) specialist legal services team brings together qualified lawyers, paralegals and community workers to provide services ranging from legal advice, early intervention and advocacy, to legal representation for eligible clients across the areas:
  - Mental Health
  - Care and Protection
  - Family and Domestic Violence
  - Criminal Law proceedings
  - Guardianship and Administration Orders
- In **New York City**, interdisciplinary law offices include a lawyer, a family support social worker, and a parent peer worker with lived experience of the system. In 2019, a large study was published which showed that “multidisciplinary representation reduced children’s time in foster care by nearly four fewer months during the 48 months following the petition filing, through faster early reunification outcomes, as compared to parents who were represented by solo practitioners”<sup>xix</sup>.

(See page 9)

## Key Evidence: Therapeutic jurisprudence (and specialist courts)

Therapeutic jurisprudence focuses on the law's impact on emotional and psychological wellbeing: looking at less damaging ways of resolving issues (Weinsten 1997 and 1999 in Ivec<sup>1</sup>).

Often the literature analyses child custody (Family Law) disputes, citing the potential for emotional and/or psychological impact. There are similarities in child protection cases: “the adversarial process in a child custody context can be both traumatic for the child and damaging to the relationship of the parents who, despite their divorce, need to have some relationship in the future for the sake of the child. This analysis exposes how the adversarial process encourages inflicting of harm on the other party, presenting a case of a ‘bad parent’ — similar to proceedings in child protection proceedings”<sup>1</sup>.

In Queensland, over the past 20 years, a number of ‘specialist courts’ have been successfully trialled and then implemented. While not community-sector ‘interdisciplinary’ legal services, these models include some common features – for example, early dispute resolution, co-located support services, non-legal advocacy support and/or culturally safe and appropriate, trauma-informed peer and community member support.

- [Drug and Alcohol Court](#)
- [Mental Health Court](#)
- [Murri Court](#)
- [Specialist Domestic and Family Violence Specialist Court](#)
- [Youth Court \(Townsville\)](#)

We do however prefer the community-sector ‘interdisciplinary legal service’ recommended throughout this Submission. While positive additions, therapeutic or specialist courts alone would add additional investment into large government or institutional edifices where change can be slow, cumbersome, and proportionately more expensive. Large government institutions can also be inaccessible for many parents and families due to past experiences and distrust of authorities. Community-led, local supports are more effective and inclusive.

## 5. Longer-term child protection orders

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
5.1	Applications to the Court:  <b>Child Protection Orders</b>	<p>The <b>child's parents are respondents to the application</b> and the chief executive must serve a copy of the application on each of the child's parents personally or by leaving it at or sending it to the last known address of the parents.</p> <p>The Children's Court <b>may only decide the application in the absence of the parents if the parents have been given reasonable notice and fail to attend</b> court or the court is satisfied it was not practicable to give the parents notice of the hearing. (p.47)</p>	<p>The power imbalance feels particularly stark as parents experience the gathering of evidence, the serving of papers, and being given late notice, or no notice, of court matters.</p> <p>One of the most distressing aspects described consistently by parents is <b>Affidavits</b>. <i>"This is not me!"</i></p> <p>Parents frequently describe large volumes of material being included (parents wonder if it is "for effect") when much of it would reasonably be considered <b>irrelevant</b> to the matter. Conversely many parents are frustrated when <b>they provide material, records, or reports to the Department, which the parents consider vital to the matter</b>, but these appear not to be considered, nor included in the application.</p> <p><i>"There was incorrect information in the Child Safety affidavit. It took 8 months and 5-6 court appearances (incl adjournments) to be able to produce an affidavit that showed where Child Safety's affidavit was incorrect. That's not ok."</i> (Parent, 2024)</p> <p><i>"A parent spoke of how criminal charges relating to them dating back to 1991 were submitted in an affidavit in 2018. When the affidavit was presented to court it made it look like this was all current. They had committed the crimes when they were 17 and had been clean from all alcohol and drugs for 26 years."</i> (Parent, 2024)</p>

## 6. First Appearance

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
6.1	First Appearance	<p>As the litigation model is described, often the <b>“first appearance”</b> is also the <b>first time the model mentions a parent and/or their legal representation being present.</b></p>	<p>Often parents, say they experience this first appearance “months after” their children were removed.</p> <p>This far into the undeniably traumatic process of child-removal without appropriate, accessible, independent advocacy, legal advice, and/or representation for the parents is unacceptable.</p> <p>FIN is not aware of any <b>timeframe or workflow data for the litigation processes</b> but parents consistently say that timeframes get revised or extended regularly.</p> <p>Parents estimate that it takes around <b>“12-months to 18-months” from application to finalisation of the Order.</b></p> <p>This of course refers to the time it takes for the process of a child is coming INTO care. It does not refer to the time spent in care and/or to reunify.</p> <p><i>“I lost another year with my children because they were under a <b>court assessment order for 12 months</b> before the short-term custody order was put in place. I tried to say to DCPL, well, I've already done a year. So why can't we take a year off the orders so that I would have my children returned like in a month? And no.” (parent, 2025)</i></p> <p><i>“There should be a set timeframe between the end of the investigation for child safety and this is when you have to have your court stuff submitted to court, ready to go. In my mind, it would be two weeks, three weeks tops maybe. Obviously I know that's crazy short for government.” (parent, 2024)</i></p>

## Key Evidence: Parents do not receive support services if children are removed

While this Submission focuses on legal processes, it is relevant to know the broader difficulties parents endure while they are trying to remain connected with their child/ren.

It often surprises people to learn that parents who have had their children removed are not eligible for support services. They are offered group parenting courses (such as 123 Magic, or Circle of Security) and generally these are the only supports provided by Child Safety or Child Safety-funded NGOs once children have been removed. Parents therefore find themselves alone to source all the services and specialists they need and/or the supports listed on their Case Plan.

Depending on waitlists, some departmentally-funded family support services (eg. Intensive Family Support (IFS) or Family Intervention Service (FIS)) may become available on the proviso the family is working towards reunification, or once they have been granted and maintain sufficient regular overnight visits.

As previously stated, the *Child Protection Act 1999* discusses the best interests of the child, with their family having primary responsibility for their upbringing, and the Act stipulates that **the family should be supported if a child is removed**.

### Section 5B - ...

f) If a child is removed from their family, **support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family** if the return is in the child's best interests.

### Further Section 7 – the Chief executive's functions –

(1) For the proper and efficient administration of this Act, the chief executive's functions are—

- (a) providing, or helping provide, **information for parents** and other members of the community about the development of children and their safety needs; and
- (b) providing, or helping provide, **preventative and support services to strengthen and support families** and to reduce the incidence of harm to children; and
- (c) providing, or helping provide, **services to families to protect their children if a risk of harm has been identified**; and
- (d) providing, or helping provide, services for the protection of children and responding to allegations of harm to children; and ...

## Recommendations or Areas for Future Discussion – Child Protection Orders | First Appearance

**Recommendation 1** - Implement mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.

**Recommendation 2** - Implement multidisciplinary law offices in the Queensland Community Sector. These would be similar to those in New York City: lawyers work in a team that also includes social workers providing support, and peer workers **who are** parents with lived experience.

## Case Study: “Timeframes are made explicit...” – Cornerstone Advocacy

Timeframes are key in the “Cornerstone Advocacy” model (with its four cornerstones: visiting, placement, services, conferences).

**Timeframes are made explicit** and small adjustments and greater clarity and accountability - including courts’ seeking “a status report on visiting” should court dates be protracted.

**Read more:** Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families (2009) <https://toolkit.parentadvocacy.net/wp-content/uploads/2020/10/Cornerstone-Advocacy-Article.pdf>

## 7. Social Assessment Report | Parental Capacity to Understand Proceedings

	Component	Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
7.1	Social Assessment Report	<p>The court may make an order requiring “a written social assessment report about the child and the child’s family be prepared and filed in the court”.</p> <p>An appropriately qualified practitioner may carry out the social assessment.</p> <p>The practitioner does not incur liability for an act or omission done or omitted to be done honestly and without negligence in carrying out the social assessment. <i>(Child Protection Act 1999)</i></p> <p>A <b>social assessment report includes</b> information about a child’s history, living situation, views and wishes.</p>	<p>The outsourced social assessment is an extremely powerful component of the litigation model.</p> <p>It contains recommendations to the court about the contractor’s views about the best way to protect the child’s best interests.</p> <p>Parents say when they attend a ‘social assessment’ appointment, they do not know what they are going to, and have not provided informed consent.</p> <p>Parents highlight concerns about having no choice in provider – they must use the court-appointed ‘independent’ assessor.</p> <p>Parents have concerns that there is a bias. (One parent spoke of a psychologist who has done over 600 assessments over 16 years for Child Safety and has purportedly never found in a parent’s favour.)</p> <p>Understandably parents often disagree with ‘independent assessors’ recommendations. But in order to <b>raise this concern with the court or tribunal,</b></p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
		<p><b>parents must speak to a lawyer</b> - swiftly - before decisions are made about their child. Legal representation is therefore also needed for this and other broader purposes.</p>
7.2	<p>Parental capacity to understand proceedings</p> <p>We are aware that the recent (unpublished) survey of parents experiencing the Child Safety system found more than <b>one-third of respondent parents said they had a disability</b>.</p> <p>The <i>Child Protection Act 1999</i> – Section 106 (2) – “<b>Court to ensure parties understand proceeding</b>” states:</p> <p>(2) “if the child, <b>parent or other party has difficulty communicating in English or a disability that prevents him or her from understanding or taking part</b> in the proceedings, the Childrens court must not hear the proceeding without an interpreter to translate or <b>a person to facilitate their taking part in the proceeding</b>”.</p> <p>The <i>Children’s Court Benchbook</i> states “If all parties come to an agreement about the most appropriate child protection order, and the court makes this order, the <b>Magistrate still has an obligation to provide reasons for their decision</b> under section 104 of the Act, and to be satisfied of the matters in section 59 of the Act” (p.84).</p>	<p>Parents and families are a deeply diverse group; they have many strengths and may also experience multiple vulnerabilities that create an intersectionality of significant barriers and challenges when faced with the complexity and detail of the child protection litigation model.</p> <p><b>Parents with disability</b> are particularly impacted.</p> <p><i>“I refused to tell them I had [a disability]. I was trying to hide it. As soon as they did the capacity assessment and they knew I had a disability, that's when child safety went downhill. oh, she's got a disability, she can't cope with the kids and all this stuff.”</i> (Parent, 2025)</p> <p>Parents need accessible interdisciplinary legal teams appropriately skilled to support parents with disability to <b>raise concerns with courts and/or tribunals</b>.</p> <p>(Reminder – see page 8 – features of ‘mandatory legal representation for parents’)</p>

Recommendations or Areas for Future Discussion – Social Assessment Report and Parental Capacity to Understand

**Recommendation 1** - Implement mandatory legal representation (throughout the process and beyond) to uphold parents’ rights and ensure accountability of all parties.

**Recommendation 2** - Implement multidisciplinary law offices in the Queensland Community Sector. These would be similar to those in New York City: lawyers work in a team that also includes social workers providing support, and peer workers **who are** parents with lived experience.

**Additional recommendation ‘ii’** - The selection, allocation and use of independent assessors should be improved with a ‘preferred supplier’ panel of providers who are subject to regular standard quality reviews. This would also allow choice for parents.

**Additional recommendation ‘iii’** - Specialist legal services are non-negotiable parts of the system. Services such as Women’s services, youth services, Aboriginal and Torres Strait Islander services, and services for people with disability.

## 8. Reunification

	Component	Policy Intent (government source documents)	Parents’ and Services’ Reality & Issues
8	Reunification	<p><i>Child Protection Act 1999</i></p> <p><b>4 The purposes of this Act are—</b>                      (a) to provide for the <b>protection of children</b>; and                      (b) to promote the <b>safety of children</b>; and                      (c) to the extent that it is appropriate, to <b>support families caring for children</b>.</p> <p><b>5B ...</b>                      b) <b>A child’s family has primary responsibility</b> for their upbringing, protection and development                      ...</p>	<p>Parents experience of reunification is characterised by extended time delays, lack of clarity, sporadic communication, and frequent “goal post changing”.</p> <p><i>“There should be more transparent parenting goal plans with clearly stated goals and benefits. A roadmap for improvement. Parents need goals and things they can look forward to.”</i> (parent 2024)</p> <p>Once the energy and attention to litigation and placement have passed, the process of <b>reunification</b> does not seem to be a priority.</p> <p>The process does not feature significantly in the Child Protection Litigation Model nor in any detail in Child Safety practice and procedures (with the exception of “Permanent</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
	<p>c) The <b>preferred way of ensuring a child's safety and wellbeing is through supporting the family</b></p> <p>...</p> <p>(m) a <b>delay in making a decision in relation to a child should be avoided</b>, unless appropriate for the child;</p> <p><b>SBA "Principles for achieving permanency for a child"</b></p> <p>...</p> <p>(2) For ensuring the <b>wellbeing and best interests of a child</b>, the action or order that should be preferred, ..., is the action or order that best ensures the child experiences or has—</p> <p>(a) <b>ongoing positive, trusting and nurturing relationships with persons of significance to the child</b>, including the child's parents, siblings, extended family members and carers; and</p> <p>(b) <b>stable living arrangements, with connections to the child's community</b>, that meet the child's developmental, educational, emotional, health, intellectual and physical needs; and</p> <p>...</p> <p>(4) For deciding whether an action or order best achieves permanency for a child, the following principles also apply, in order of priority—</p> <p>(a) <b>the first preference is for the child to be cared for by the child's family"</b></p>	<p>Care Orders" (see page 35) to be deployed when reunification "has not been achieved" for whatever reason).</p> <p>The child protection litigation model therefore appears to diligently litigate to remove children from their parents; however their return is not currently a well-documented nor resourced area of practice.</p> <p>It is interesting to note language: the <i>Child Protection Act</i> has few references to "reunification" per se. The drafting instructions and/or other jurisdictions may shed light on why this is. Our assumption is that reunification with parents ("first preference") <u>is</u> the purpose of the Act – given its foremost references to parents and family, to the "wellbeing and best interests" of the child, to timeliness, to "ongoing positive trusting nurturing relationships", and to "stable living arrangements". There may be a conscious or unconscious bias in practice to think otherwise: to think that these should be provided by the state, carers and institutions.. Perhaps the Act needs to make "reunification" more explicit in order to improve this area?</p> <p>As stated elsewhere, reunification rates have also been shown to improve where there is mandated legal representation for parents.</p> <p>Publicly available data about reunification rates may also improve accountability and funding prioritisation. (To our understanding, the Department does not have detailed performance data in relation to reunification.)</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
	<p><i>Child Protection Practice Manual:</i> "A case plan clearly states:</p> <ul style="list-style-type: none"> <li>· the goal and actions to achieve permanency for the child, and timeframes for achieving them</li> <li>· an alternative permanency goal, <b>if the primary goal is reunification"</b></li> </ul>	

#### Recommendations or Areas for Future Discussion – Reunification

**Recommendation 1** - Implement mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.

**Recommendation 2** - Implement multidisciplinary law offices in the Queensland Community Sector. These would be similar to those in New York City: lawyers work in a team that also includes social workers providing support, and peer workers **who are** parents with lived experience.

**Additional recommendation 'iv'** - There must be full commitment to the Child Protection Act's principle that **family (and therefore reunification) must be the focus** of the child protection system and the litigation model. Also to use the **'least intrusive'** options, and to provide families with **post-reunification support** so the family can heal from their experience.

**Additional recommendation 'v'** - The department should regularly publish detailed performance data in relation to reunification.

## 9. Permanent Care Order

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
9	<p>Permanent Care Order</p> <p>In response to the issue of children and young people 'drifting in care' legislative changes were enacted in 2020/21.</p> <p>Child Safety practice is currently to "consider recommending a long-term guardianship order or a permanent care order when reunification has not been achieved</p> <ul style="list-style-type: none"> <li>· <b>within two years</b> of the development of the child's first case plan (after coming into care) and</li> <li>· is <b>unlikely to be achieved within a timeframe considered appropriate</b> for the child (taking into account their age and stage of development)"</li> </ul> <p>(Practice Manual "<u>Decide the Type of child protection order</u>", accessed 26/11/25)</p>	<p>FIN is not aware of the progress of Queensland's 2020/21 permanency amendments implementation in Queensland.</p> <p>We are however aware of the Commissioner's curiosity about the "magic two years" regarding permanency. Our experience would indicate that for some parents, the two-year timeframe feels appropriate, for many it does not.</p> <p>It may be useful to note that the <u>2017 Victorian Inquiry into their experience of 'permanency' implementation</u><sup>xx</sup> found an 11% decrease in the number of children reunified with their parents; and growing gaps in case planning, inclusion of family members, provision of documents, and stated plans to parents and families.</p>

### Recommendations or Areas for Future Discussion – Permanent Care Order

**Recommendation 1** - Implement **mandatory legal representation (throughout the process and beyond)** to uphold parents' rights and ensure accountability of all parties.

**Recommendation 2** - Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

**Additional recommendation 'iv'** - There must be full commitment to the Child Protection Act's principle that **family (and therefore reunification)** must be the focus of the child protection system and the litigation model. Also to use the **'least intrusive' options**, and to provide families with **post-reunification support** so the family can heal from their experience.

## 10. Other Acts and legal matters

	Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
10.1	<p>Domestic and Family Violence - and - Child Protection interface</p> <ul style="list-style-type: none"> <li>Domestic and Family Violence Protection Act 2012</li> </ul>	<p>Anecdotally, Domestic and Family Violence is present in the majority of Child Safety investigations.</p> <p>While no public statewide data is available, the Department of Child Safety's 'Child in Care Census 2024' (that informed the commencement of the Commission of Inquiry), states <b>"68% of children entering the out-of-home care system had "been exposed to domestic violence" <sup>xxi</sup>.</b></p>	<p><b>Victims of crime</b> are over-represented in the child protection system.</p> <p>The <b>protective parent who is the victim of domestic and family violence</b> has little support to navigate the dual system.</p> <p>Common experiences:</p> <ul style="list-style-type: none"> <li>the protective parent being blamed and/or criminalised</li> <li>the parent who has been using violence is granted custody and/or contact rights in excess of the protective parent</li> <li>permanent injuries sustained as a direct result of domestic violence being used by the Department as a reason to remove children or not return children.</li> </ul> <p><i>"We were (victims) blamed for not protecting our children. The Department said "we want a clear action plan that you would take to remove yourself and your children from the situation". But when you don't have anywhere to go and Child Protection gets involved, you (the mother) will always be the one who was responsible for not removing your child from danger. You can't change that or take a course to show you won't do it again."</i> (Parent, 2016*)</p> <p>* This 2016 quote is cited intentionally. While practices have improved in some instances, the experiences of the protective parents FIN speaks with is largely unchanged.</p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
<p><b>10.2</b></p>	<p>Child Protection interface with other legislation or jurisdictions</p> <p>For example</p> <ul style="list-style-type: none"> <li>· Criminal Code Act 1899</li> <li>· Victims of Crime Assistance Act 2009</li> <li>· Juvenile Justice Act 1992</li> <li>· Family Law Act 1995 (Cth)</li> </ul>	<p>Child protection matters can interface with <i>Family Law</i>, the <i>Criminal Code</i> and other legislation.</p> <p>Parents tell us that, as part of the child protection process, there are often instances of being charged under other Acts. For example:</p> <ul style="list-style-type: none"> <li>· common assault</li> <li>· failure to provide the necessities of life</li> <li>· child stealing</li> <li>· drug misuse</li> </ul> <p>The inconsistency of Criminal Code charges and the inter-relationship with Child Protection evidence-gathering is an issue with long-term consequences for families, including Blue Card implications.</p> <p>For the parent these legal matters will typically be ongoing for years. The burden of proof is different, the lawyers will be different, and the parent is often liable for significant additional expenses.</p> <p>This continues to impact many families who are navigating the difficult and isolating period of reunification, or long-term orders.</p> <p>For this reason we recommend that legal representation continues.</p>

## Case Studies: Interface with other Acts – specialist legal teams in Western Australia and the United States

In Western Australia [Ruah Community Services](https://ruah.org.au)' specialist legal services team brings together qualified lawyers, paralegals and community workers to provide services ranging from legal advice, early intervention and advocacy, to legal representation for eligible clients across the areas:

- Mental Health
- Care and Protection
- Family and Domestic Violence
- Criminal Law proceedings
- Guardianship and Administration Orders

**Read more:** <https://ruah.org.au/services-support/specialist-legal-services/>

In the United States, The Bronx Defenders support residents across criminal, civil, family, and immigration cases—and reach thousands more through holistic advocacy, social work, and community-based services. **Read more about their child protection work:** <https://www.bronxdefenders.org/our-work/defending-new-yorkers/family-defense/>

## Recommendations or Areas for Future Discussion – Child Protection interface with Domestic and Family Violence, and other legislation

**Recommendation 1** - Implement **mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.**

**Recommendation 2** - Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

## Other Acts and legal matters (Cont.)

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
10.3	<p>Interface with the <i>Queensland Human Rights Act 2019</i></p> <p>The key sections of the <i>Queensland Human Rights Act</i> that interface with the <i>Child Protection Act</i> are:</p> <ul style="list-style-type: none"> <li>· Right to recognition and equality before the law (section 15)</li> <li>· Right to freedom of expression (section 21)</li> <li>· Right to a fair hearing (section 31)</li> <li>· Right to protection of families and children (section 26)</li> <li>· Cultural rights - generally (section 27)</li> <li>· Cultural rights - Aboriginal peoples and Torres Strait Islander peoples (section 28)</li> <li>· Right to privacy and reputation (section 25)</li> </ul>	<p>In Queensland's child protection system - parents' human rights <b>are not currently operationalised</b>.</p> <p>In 2022, Micah Projects, FIN and parents co-developed the <i>Charter of Rights for parents involved with the child protection system in Queensland</i><sup>xxii</sup>. This was a proud achievement for Queensland's parent movement.</p> <p><i>"I think what I will give the Department is, how they worked on this.. they came to the table, and they did it quickly and it was out quickly. They said they were going to do that, and they did it. Within 3 months. That's remarkable. It is."</i> (worker, 2023)</p> <p><i>"I just think it's great. I think the Charter of Rights is fantastic. We've just got to find a way to get it out there."</i> (parent, 2023)</p> <p>In 2023, the Department funded the 12-month evaluation of the Charter (<i>"Review of the Charter of Rights for parents involved with the child protection system in Queensland. Report to the Department of Child Safety, Seniors and Disability Services"</i> June 2024.)</p> <p>The report indicated many actions required for full implementation were required. And are still required.</p> <p><i>"You need to do community engagement about rights. You can't just do a road show to 5 main towns... That won't cover it for education. If you're going to do it, you need to be serious. If it costs a lot – do it. We're talking about equality and human rights..."</i> (parent, 2023)</p> <p><i>"...it makes me realise just how important it is to be hearing the views of parents... What is it that will work? And it makes me start to think that one of the solutions is that it needs to be offered from many different angles, and for each parent it will be</i></p>

Component	Policy Intent (government source documents)	Parents' and Services' Reality & Issues
		<p><i>successful from someone else, whether it's their GP, whether it's a lawyer, whether it's [NGO]... if it's available from many different places, then hopefully it starts to cover most families because each person, something different will work."</i> (2023)</p> <p>It is for this reason we call for mandatory legal representation so parents can access their rights. We further call for the <i>Charter of Rights for Parents</i> to be legislated and fully implemented to embed parents' rights.</p>

#### Recommendations or Areas for Future Discussion – Queensland Human Rights Act

**Recommendation 1** - Implement **mandatory legal representation (throughout the process and beyond) to uphold parents' rights and ensure accountability of all parties.**

**Recommendation 2** - Implement **multidisciplinary law offices** in the Queensland Community Sector. These would be similar to those in New York City: **lawyers** work in a team that also includes **social workers** providing support, and **peer workers** who are parents with lived experience.

**Additional recommendation 'vi'** - **Legal representation should support parents, at any stage, to access their rights and processes** in line with *Charter of rights for parents involved with the child protection system in Queensland.*

**Additional recommendation 'vii'** - The *Charter of Rights for parents* should be **legislated and fully implemented** to embed parents' rights.

## Part Two

### Parents' responses to the Inquiry's questions about the Child Protection Litigation Model

Following is a small selection of additional recent parent comments on the questions asked by the Commission of Inquiry on 13 November 2025. The quotes relate to parents in the periods 2014-2015 and 2020-2025.

To read comments and suggestions from more than 50 other parents whose experiences were between 2016 and 2024, please follow this link [FIN-CP-Litigation-Review-Parent-Consultation-Report-2024.pdf](#).

#### How easy did you find the legal process?

- *I was thinking I don't need a lawyer because I've done nothing wrong and all that. And I didn't realise that Child Safety has a legal system. (parent 2025)*
- *I just thought, okay, they've taken the kids, like they came in, took the kids, no court, no nothing like that, and then they will be returned. (parent 2025)*
- *hit you when you're at the lowest of the low. they just, here, like an envelope, here. and it's a legal aid brochure. I was trying to apply, like all by myself. (parent 2025)*
- *I found it was, "do what they say", you've got no choice. And it's whether or not you go to court. They say, "okay, two year interim order". And you have to say okay, and you walk out. (parent 2025)*
- *a legal aid centre. I went there and they turned me away because I didn't have any papers. And I'm like, well, what \*\*\*\*\* papers am I supposed to have? "Papers from the department" they said. I didn't have any. (parent 2025)*

#### Did you have any specific challenges through the process and if so, what were they?

- *I signed the short-term custody order because they backed me into a corner and virtually was the legal aid lawyer saying, if I didn't sign the short-term custody orders, then they were looking at taking out 18-year guardianship orders. (parent 2025)*
- *I've got all this contradictory evidence of what you're [Dept's] saying, and what a therapist is saying. (parent 2025)*
- *[Lawyer] left an hour into [family group meeting]. That was the total funding allocated. So I was left the other hour having to deal with child safety by myself. (parent 2025)*

### [Parent with a newborn]

- *I had him, but it was that next morning... they took him. They took him and then I had just a panic attack... I'm like, where's my son? "oh, you can't see him, you have to wait till you talk to the department". So I've gone to leave and I've got men and security guards and stuff and they took me. And there's this lady with a lanyard. She's a support worker, but I didn't know who she was... And she actually got the CSO or team leader on the phone for me to be able to talk to.  
And I was like, I want to see my son. And she said, "well, that's not going to happen. You're not going to be able to see your son. We're going for a temporary order. So it's like a three-day order. You need to do a drug test. Then we'll talk about you seeing your son". (parent 2025)*

### [Parent with disability]

- *I refused to tell them I had [a disability]. I was trying to hide it. as soon as they did the capacity assessment and they knew I had a disability, that's when child safety went downhill. oh, she's got a disability, she can't cope with the kids and all this stuff. I'm like, hang on, you tell me to do specific programs, I do them. I know what my strengths are and what my negatives are. if I put my bum down and my head to it, I can do anything. And now my CSO and team leader are saying, you do not need to do any more parent courses because you have done too many. (parent 2025)*
- *They think, oh, she didn't care about her kids and all that. I went out, I asked for help. I even asked child safety before the kids were removed for help. I asked the kids' therapists, I asked everyone I knew and no one helped me until it was too late. (parent 2025)*

### [Bias due to parents' socio-economic status]

- *The same rules don't apply for the lower income. (parent 2025)*

## What support or help did you get during the process including legal representation?

- *the legal system was okay because I think within two months of it all starting, I had **one lawyer and she was amazing**. She was like fighting from every second of all the courts and all that. Being there for the family meetings and all that. I've had the same lawyer from day one. (parent 2025)*
- *I was supposed to get a two-year custody order last year. But because of the CSSC, I refused it and we were fighting it, like everything. Until the moment we moved to [**another CSSC**], then I agreed to it. Because now, instead of doing the two years, they're saying 12 months and the kids will be home. (parent 2025)*
- *Yeah, as long as you have a **good FIS worker**, like a good support worker and that to advocate for you that you need it done. (parent 2025)*
- *so **family intervention service (FIS)**, I don't know what other ones, but I'm just using that because that's my example. I've got this lady and she's an absolute gem. (parent 2025)*

## What support or help would you like to have been given during the process? How do you think the legal process could be improved?

- *Peer workers! Lived experience advocates early. (parent 2025)*
- *And what I would suggest, like [peer workers] go in on the front line, when you fall onto the child safety system radar and they're about to come and remove the children, then you send in the ones with the **lived in experiences** and then that's the kind of: "Okay, we've got it, but they're not going to remove your children immediately". (parent 2025)*
- **Relationships:** *at that early stage parents can be abrupt and shut off. It takes a lot to start opening up and gaining trust. If there's the right person, and time, parents will "flourish" "come leaps and bounds since then". (parent 2025)*

## Did you feel that your perspective and concerns were given consideration?

- *I felt very tricked by my CSO. I asked "Should I go and see somebody?". No. I could have talked to somebody there and possibly have gotten adjourned, but I didn't know at the time. (parent 2025)*
- *I had no idea what the judge was saying. And he just went, "yeah, it's granted" because the child safety officer there, they're saying whatever they're saying. **I didn't even get to present my stuff or be heard or anything.** And so then I never went to any court cases after that. (parent 2025)*

- *this is where the **lawyers get mixed up** – they're there to help our family, not go against us with child safety and be like manipulated. And whatever child safety says to them, they take it on board, but I don't want that to warp their whole reason of why **they've been assigned to this family, you know, like to be able to help.** (parent 2025)*
- *No, they can't discriminate if you're having a crappy day ... (out of **anyone** in society, you're going to have a crappy day). Yeah, the lowest.. when they did the capacity assessment, it was actually two days after I said goodbye to my youngest daughter. I've asked for a new one and they're like, we can't do it because of the price of them. (parent 2025)*
- *they didn't give me **choice** for that forensic psychological assessment. I said, no, I want someone independent of the department. I actually haven't given informed consent either of what this assessment is for. (parent 2025)*

## Anything else?

- *after the short-term orders was signed, legal aid was like, oh, okay, all right, the orders are in place, bye. Through [other parents I found out] that you can still get a lawyer, like a **post-order grant of aid.** (parent 2025)*
- *I've like done my placement, been offered a full-time job. But I'm like, no, I can't take it because **I'll lose my legal aid.** (parent 2025)*
- *So in my **affidavits**, I have other children's names in my affidavits, right? And I had a woman from [another place] contact me and said, I've got bits of your affidavit in my affidavit. They've copied and paste, forgot to take out the names and put my personal stuff into another person's affidavits and I have another little boy's name. (parent 2025)*

- *I lost another year with my children because they were under a **court assessment order for 12 months** before the short-term custody order was put in place. I tried to say to DCPL, well, I've already done a year. So why can't we take a year off the orders so that I would have my children returned like in a month? And no. (parent 2025)*

## Opportunities for early advice and early resolution of matters. – e.g. court ordered conference / family group meetings

Looking back on the process, FIN parent-members and advocates describe the period after the litigation process starts as a period of silence and confusion: they say the Department “bunkers down” and focuses on the litigation process: this is the time it takes for evidence gathering, court processes, and finalising an order (rather than providing therapeutic, practical or family support). Parents say this process can be a “lost” 12-18 months.

Therefore, any opportunity for early support – prior to the litigation processes starting, or immediately after it starts is needed.

Early support and collaboration between parents and Child Safety in the first instance requires a simpler process.

## Additional recommendation ‘viii’

Parents welcome being consulted and involved - from the design stage through to implementation and evaluation – in a genuine co-design of new model/s aimed at early resolution or dispute resolution.

## Further reading:

- Please also see the [Family Inclusion Network \(FIN\)](https://d2yuko1qrkt9v.cloudfront.net/live/docs/FIN-Resources/FIN-CP-Litigation-Review-Parent-Consultation-Report-2024.pdf) Southeast Queensland’s previous submission on this topic (2024)  
<https://d2yuko1qrkt9v.cloudfront.net/live/docs/FIN-Resources/FIN-CP-Litigation-Review-Parent-Consultation-Report-2024.pdf>

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<sup>i</sup> Commission for Children and Young People, Vic. <https://nla.gov.au/nla.obj-3117988804/view> (accessed 4/12/25)

<sup>ii</sup> Scottish Government commissioned report by AFKA. Final Report: Supporting Roots (2023)

<https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2023/02/supporting-roots/documents/final-report-supporting-roots/final-report-supporting-roots/govscot%3Adocument/final-report-supporting-roots.pdf> and

[Part 1: Short Evidence Review on Support for Birth Parents - Supporting roots: report - gov.scot](#)

<sup>iii</sup> Iris Reinders and Joost Huijjer, 'The Legal Representation of Parents and Children During Placement Procedures in the Light of Article 8 ECHR' (2024) 20(2) Utrecht Law Review 40–53 <https://utrechtlawreview.org/articles/10.36633/ulr.938#4-legal-representation-of-parents-and-children-in-the-light-of-article-8-echr>

<sup>iv</sup> Nuffield Foundation. Parental Advocacy in England: a realist evaluation of implementation. <https://www.nuffieldfoundation.org/project/parental-advocacy-in-england> Accessed December 2025.

<sup>v</sup> Gerber, L. A., Guggenheim, M., Pang, Y. C., Ross, T., Mayevskaya, Y., Jacobs, S., & Pecora, P. J. *Understanding the effects of an interdisciplinary approach to parental representation in child welfare*. Children and Youth Services Review. (June 12, 2020). <https://doi.org/10.1016/j.childyouth.2020.105163>.

<sup>vi</sup> Gerber, L. A., Guggenheim, M., Pang, Y. C., Ross, T., Mayevskaya, Y., Jacobs, S., & Pecora, P. J. *Understanding the effects of an interdisciplinary approach to parental representation in child welfare*. Children and Youth Services Review. (June 12, 2020). <https://doi.org/10.1016/j.childyouth.2020.105163>.

<sup>vii</sup> "The Child Protection Benchbook is intended to provide practical and informative assistance to magistrates sitting in the child protection jurisdiction. The work undertaken in this jurisdiction is unique with 21 specialist Childrens Court Magistrates appointed around the State. As at the time of publishing this Benchbook is up to date to include the second tranche of amendments to the Child Protection Act 1999 in the Child Protection Reform and Other Legislation Amendment Act 2022."

Childrens Court of Queensland, Supreme and District Court, Office of the Chief Magistrate. *Child Protection Benchbook, Second edition*. (October 11, 2023). [https://www.courts.qld.gov.au/data/assets/pdf\\_file/0003/485274/cc-bb-childrens-court-child-protection-proceedings-benchbook.pdf](https://www.courts.qld.gov.au/data/assets/pdf_file/0003/485274/cc-bb-childrens-court-child-protection-proceedings-benchbook.pdf)

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- <sup>viii</sup> Annie E. Casey Foundation. *Overview of the Family First Prevention Services Act*. (March 11, 2025). <https://www.aecf.org/blog/overview-of-the-family-first-prevention-services-act#:~:text=To%20implement%20FFPSA%2C%20states%20are,abuse%20treatment%20and%20parenting%20support>
- <sup>ix</sup> Mical Raz. Calling child protectives services is a form of community policing that should be used appropriately: Time to engage mandatory reporters as to the harmful effects of unnecessary reports. Children and Youth Services Review, Volume 110, 2020 <https://doi.org/10.1016/j.childyouth.2020.104817>
- <sup>x</sup> Douglas, H., & Walsh, T. *Mandatory Reporting of Child Abuse and Marginalised Families*. (2015) [http://rcfv.archive.royalcommission.vic.gov.au/CustomData/Exhibits/HAD/WIT.0075.001.0235\\_R.pdf](http://rcfv.archive.royalcommission.vic.gov.au/CustomData/Exhibits/HAD/WIT.0075.001.0235_R.pdf) (accessed 4/12/25)
- <sup>xi</sup> Fitt, K., & David, C. *'We should not be punished for having a disability.' Recommendations for reforms to Child Protection, Family Services and Disability Systems from Parents with a Disability*. RMIT University. (2022). <https://d2yuko1qrktt9v.cloudfront.net/live/docs/FIN-Resources/Fitt-David-FINA-PPP-DRC-Report.pdf>
- <sup>xii</sup> Australian Institute of Health and Welfare. (2021). *Child Protection Australia 2019-20*. Retrieved from <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2019-20/summary> and <https://www.aihw.gov.au/getmedia/558c05da-13a9-4a2f-9afb-86a158318290/child-protection-australia-2023-24.pdf?v=20251211213721&inline=true> (accessed 22/12/25)
- <sup>xiii</sup> The State of Queensland (Queensland Child Death Review Board). Child Death Review Board Annual Report 2024–25. <https://www.qfcc.qld.gov.au/sites/default/files/2025-12/report-cdrb-child-death-review-board-annual-report-2024-25.pdf> (accessed Jan 2026)
- <sup>xiv</sup> The State of Queensland (Queensland Child Death Review Board). Child Death Review Board Annual Report 2024–25. <https://www.qfcc.qld.gov.au/sites/default/files/2025-12/report-cdrb-child-death-review-board-annual-report-2024-25.pdf> (accessed Jan 2026)
- <sup>xv</sup> Chamberlain, C., Ralph, N., Hokke, S., Clark, Y., Gee, G., Stansfield C., Sutcliffe, K., Brown, S. J., Brennan, S. (2019). Healing the past by nurturing the future: A qualitative systematic review and meta-synthesis of pregnancy, birth and early postpartum experiences and views of parents with a history of childhood maltreatment. *PLoS ONE*, 14(12). <https://doi.org/10.1371/journal.pone.0225441> - cited in:
- Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited. Options Paper. 2019.** Changing the storyline – the application of *active efforts* in responding to concerns raised before and at the time of birth.
- <sup>xvi</sup> Scottish Government commissioned report by AFKA. Final Report: Supporting Roots (2023)

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<https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2023/02/supporting-roots/documents/final-report-supporting-roots/final-report-supporting-roots/govscot%3Adocument/final-report-supporting-roots.pdf> and

[Part 1: Short Evidence Review on Support for Birth Parents - Supporting roots: report - gov.scot](#)

<sup>xvii</sup> Iris Reinders and Joost Huijjer, 'The Legal Representation of Parents and Children During Placement Procedures in the Light of Article 8 ECHR' (2024) 20(2) Utrecht Law Review 40–53 <https://utrechtlawreview.org/articles/10.36633/ulr.938#4-legal-representation-of-parents-and-children-in-the-light-of-article-8-echr>

<sup>xviii</sup> Ivec, Mary (2013) A necessary engagement: an international review of parent and family engagement in child protection. Anglicare Tasmania. <https://www.anglicare-tas.org.au/research/a-necessary-engagement-an-international-review-of-parent-and-family-engagement-in-child-protection/> (page 53-55)

<sup>xix</sup> Gerber, L. A., Guggenheim, M., Pang, Y. C., Ross, T., Mayevskaya, Y., Jacobs, S., & Pecora, P. J. *Understanding the effects of an interdisciplinary approach to parental representation in child welfare*. Children and Youth Services Review. (June 12, 2020). <https://doi.org/10.1016/j.childyouth.2020.105163>.

<sup>xx</sup> Commission for Children and Young People, Vic. <https://nla.gov.au/nla.obj-3117988804/view> (accessed 4/12/25)

<sup>xxi</sup> Children in Care Census 2024. Department of Families, Seniors, Disability Services and Child Safety. <https://performance.dcssds.qld.gov.au/media/documents/2024-children-in-care-census-full-report-for-publication.pdf> (accessed 3/12/2025)

<sup>xxii</sup> *Charter of Rights for parents involved with the child protection system in Queensland* <https://www.families.qld.gov.au/media/documents/supporting-families/charter-of-rights-for-parents.pdf> (accessed 3/12/2025)



# Child Law Practice

Vol. 19 No. 2

April 2000

Helping Lawyers Help Kids

Developing a new approach to parent representation in child protection cases was the goal of a conference held in South Royalton, VT, October 26-27, 1999. This conference, sponsored by the Annie E. Casey Foundation, joined child welfare experts and practitioners from Vermont and around the nation to create a parent representation model to address current system shortcomings. This article describes the model, the systemic and organizational structure needed to support it, and offers tips for creating an action plan to implement it.

## A Family-Centered Model of Legal Representation for Parents in Child Protection Cases

by Trine Bech

### Parents rating their trust for their lawyers:

[M]any attorneys have no experience, really don't have a clue and you are counting on this person 100%. It scares you to death to get an attorney who does not seem to know or be interested in what you need. 'We are human beings. This is our life and these are our children.' . . . Many times you are told the day before to be at court. You don't even have an opportunity to meet your lawyer beforehand. . . . This kind of lack of notice makes you feel totally hopeless. <sup>1</sup>

Vermont's Court Improvement Project identified inadequate parent representation as one major barrier to achieving better outcomes for abused and neglected children. Experience in Vermont and research of other states' parent representation systems show that representation is inadequate and sometimes harms parents' interests. Parents report that the adversarial nature of the courtroom pits them against their children. Their family histories, strengths and needs get lost in a system bent on finding fault and blame.

Unlike representation for child welfare agencies and for children, many states have no system in place to ensure competence in, and accountability for, parent representation. Although parent representation models vary, many states base them on the criminal defense model where *deny and delay* are seen as effective legal strategies. Such criminal defense tac-

tics rarely meet the parents' objectives for the return of their children to their custody (see sidebar p. 23 for more shortcomings of parent representation models).

### A Family-Centered Model of Legal Representation

This is a system in which the lawyers honor the family's integrity by taking time to understand the family's dynamics and relationships, explain the legal process and options, and engage the family in finding their own solutions. This "family-centered" problem solving representation model has its main focus in a forum outside the courtroom. This model is contrary to the current representation model where the court is often the only place where parents see their lawyers.

In defending the current model, lawyers argue that the courtroom is the appropriate forum when there has been a long history of violence against chil-

dren; the alleged perpetrator is in denial, or shows no remorse; or there are criminal proceedings pending arising out of the same facts. Experience in the use of family-centered tools has shown, however, that parents, if given options, can choose what will work for them if they have competent legal counsel. <sup>2</sup>

A family-centered approach presumes that families have strengths, can change, are able to make responsible decisions, and can be accountable for their actions. When criminal

(Continued on page 22)

### What's Inside:

- 18 [CASE LAW UPDATE](#)
- 26 [SIGNIFICANT DECISIONS](#)  
Giving Children Their Voices
- 28 [IN THE WORKPLACE](#)  
Finding Ways to Reduce Stress in the Child Protection Field
- 30 [MANAGING YOUR TIME](#)  
How to Manage Information Overload
- 32 [POLICY UPDATE](#)  
Genetic Testing of Adoptive Children Discouraged

(Continued from page 17)

proceedings prevent frank discussions or parents deny that they placed their child in jeopardy, the parents will likely choose the courtroom as the more appropriate forum. Thus a family-centered approach includes traditional litigation as the forum.

### **Why Parents Need A Family-Centered Model**

Effective legal representation for parents is crucial because the Adoption and Safe Families Act of 1997 (ASFA)<sup>3</sup> shortens the time parents have to remedy the problems which led to their children's removal. Under ASFA, to receive Title IV-E foster care reimbursement, the child welfare agency must petition to terminate parental rights to every child in custody for 15 of the last 22 months, unless the agency can show a "compelling reason" not to. With these shortened timeframes, the legal strategies for parents involved in child abuse and neglect proceedings need to shift to *consult and create* to assist them make changes needed for their children's *safe* return home.

Parents find that a structured dialogue among themselves, their children (if age appropriate), the social worker, service providers, lawyers and guardians *ad litem*, aimed at creating a *timely* safety plan for the children, is more likely to be successful in achieving the goal. Such dialogue, in contrast to the hurling accusations found in contested litigation, is also more conducive to creating a constructive relationship between the social worker and the family. After a plan is created, either through the dialogue or a contested hearing, the quality of the working relationship between the social worker and the family is crucial to the plan's success.

### **Characteristics of the Family-Centered Model**

The following elements are essential to family-centered legal representation for parents in child abuse and neglect proceedings:

### **Educate and Guide the Parent through the Legal System**

It is the lawyer's job to explain the options available and guide the parent through the legal process. The laws are not complicated, but the interwoven social services designed to change behavior to make children safe are complex and require interdisciplinary understanding and expertise. Understanding which social services program and treatment options work for specific parenting issues is a prerequisite to effective practice.

### **Counsel the Parent about Expectations and Consequences**

The lawyer should counsel the parent about specific expectations and consequences for failing to meet expectations. This role is particularly challenging when parents are struggling with substance abuse and domestic violence.

### **Establish Trust**

Parents in child abuse and neglect proceedings often must change their behavior to make their homes safe for their children. This takes time and usually many failed attempts. To be effective, the lawyer must have a trusting relationship with the parents. Establishing trust involves spending time listening and getting to know the parents. Parents appreciate small courtesies, like returning phone calls and promptly responding to requests. Such efforts help establish the trust required for the parent to listen and consider the lawyer's recommendations.

### **Be Accessible**

The lawyer must be accessible to the parent geographically, culturally, and linguistically. A different language, lack of transportation to appointments, lack of access to the *same* lawyer at critical stages of the legal proceedings — all prevent the parent from trusting the help the legal process can provide.

### **Be Competent in the Conventional Legal Role**

In addition to interdisciplinary knowledge and skills, the lawyer needs to have conventional legal skills to protect client confidentiality, and represent the parent's constitutional and other legal rights. The lawyer needs to ensure the legal and social services systems provide the protection and services the parent is legally entitled to receive. This may involve skillful negotiations with the other parties focused on outcomes for the family (i.e., ensuring the child's safety needs will be protected within the family), and conducted in a manner and at a time where choices are meaningful (i.e., not in a crowded courtroom hallway).

### **Be a Compassionate Listener, Interested in the Work**

Representing parents whose children have been taken into state custody, or who are at risk of being taken into custody, involves more than giving advice for a short time. The lawyer needs to understand and show concern for the parent's circumstances, be willing to listen, and be committed to creating hopeful solutions.

At the same time, the lawyer needs to accept the parents for who they are and work from their perspectives. This involves:

- providing options based on the family history and relationships;
- engaging the parent in taking responsibility for making choices;
- sticking with the work through difficult periods while the parent struggles to change behaviors which brought the child into the child protection system;
- looking to other family members who can be resources to the parent in the change process.

### **Engage Family Members and Family Resources**

Engaging family members or other family resources to help the parent find solutions and keep his or her

children safe is the essence of family-centered representation. Courtrooms are not conducive to engaging families, and the solutions they propose usually have limited success addressing long-term behavioral issues and family relationships.

Advocates and social service providers have therefore begun to use tools, such as mediation and family group decision making. These forums let parents, children, and other family members tell their stories and plan for the children's safety.<sup>4</sup> If these tools are not available, the lawyer should help create them so the parents and children (if age appropriate) can choose an alternative to litigation. The lawyer's role may be limited in these settings to ensuring all issues are addressed, and preventing the parents' stories from being used against them in the courtroom if the alternative forum does not produce an acceptable solution.

### **Be Part of a Support Team**

Accomplishing all tasks needed to effectively represent parents is easier if the lawyer works as part of a team with paraprofessionals. For example, helping the parent understand how to maneuver through the legal system, and access social services, are tasks a paralegal or a community-based advocate could perform, leaving the lawyer free to focus on legal strategies, negotiations, case preparation, legal briefs, appeals, etc. These options are explored later in this article as part of the infrastructure needed to support an effective system of parent representation.

### ***How to Ensure Parents Have Family-Centered Legal Representation***

To provide the legal representation described above, the conference participants looked at what systemic support and organizational structure would be needed. Although needs varied across jurisdictions and depended on the type of system in place, conference participants agreed the

### **Shortcomings of Current Parent Representation Models**

- Little specialized interest and commitment to child protection issues.
- Little understanding of family dynamics, child abuse and neglect laws, domestic violence, substance abuse and the community social service system.
- Little legal experience or only criminal defense background.
- Inadequate training, support, supervision, and accountability.
- Low compensation rate.
- High turnover rate (the Vermont Attorney General, responsible for the parent representation system, reported that there is an annual one-third turnover rate for parent attorneys).
- Lawyers practice in both criminal and family courts creating scheduling conflicts between courts.
- Lawyers not appointed until after the first emergency custody hearing.
- Lawyers do not meet with their clients until the adjudicatory hearing.
- Lawyers not available for agency case plan reviews.
- Lawyers relieved of their representation after the disposition, leaving parents unrepresented while they try to meet the requirement of the disposition order.
- Little continuity of representation from the emergency custody hearing through final permanency for the child, causing delays in permanency decisions for the child.
- Lawyers craft solutions which are either unattainable or not understood by the parents.

following systemic elements are essential:

#### **Hiring/Contracting of Lawyers**

Hiring practices for lawyers to perform this work must take into account lawyers' interest, experience, education, and commitment to public service work, family law, and child abuse and neglect proceedings. Since this work is taxing on lawyers, dedication is a needed ingredient to longevity. The family bar may be a better source for recruits than the criminal bar.

#### **Training**

Lawyers need substantial training in family law, substantive and procedural child abuse and neglect laws, and the social service delivery system. Ongoing training is necessary to address specific aspects of child abuse and neglect (e.g., sexual abuse of and by children; multiple victims of domestic violence; timing of substance abuse

recovery in contrast to ASFA timelines; concurrent planning), good practice, and innovations (e.g., family group decision making, pre-adjudication service "front loading").<sup>5</sup>

#### **Lawyers as Specialists**

To give this work priority, lawyers should dedicate full time to representing parents in child abuse and neglect cases. Just like specialized lawyers who represent child welfare agencies and children, parents' lawyers should specialize in engaging parents in child protection, holding agencies accountable, and finding creative solutions to complicated family dynamics. Specialization will also foster continuity of representation where the same lawyer is available from the first custody hearing until permanency is achieved for the child, including the child welfare agency case plan reviews. Thus the lawyer becomes invested in

the long-term solutions for the family.

Depending on the jurisdiction, to achieve specialization in rural areas, a regional model may be necessary to create full attorney caseloads. Neighboring counties can combine their caseloads and share the same lawyer in much the same way as some states have created “cluster” courts where one specialized juvenile judge travels from court to court.<sup>6</sup>

Better parent representation should decrease children’s length of stay in out-of-home care, thus reducing foster care costs.

### **Capacity to Support a Parent Representation System**

To ensure adequate compensation, training, supervision, and accountability, a supportive organizational structure must be in place. The organi-

and the consequences for not following through. Because they have been through the system, family advocates are better able to form trusting relationships with parents.

The family advocate explains, supports, and assists/insists on communication between the parents and the other parties to the legal proceedings. The family advocate has equal status to the other “players” and helps educate the lawyers about family needs and perspectives, acts as a buffer or “simultaneous translator” for the parents, and ensures out-of-court tools like mediation and family group decision making are available. Once a case plan is approved by the court, the family advocate helps the family implement it.<sup>8</sup> The family advocate has immunity from being subpoenaed for court proceedings.

The cultural acceptance within the jurisdiction for paying parents who have previously been involved in the system is a factor to consider when deciding whether to use a family advocate.<sup>9</sup>

2. *Paralegals* fill many of the roles identified for the family advocate, but work within the lawyer’s office, are available to parents, arrange for alternative dispute resolution options and monitor social service delivery.

### ***Creating an Action Plan***

Your jurisdiction may already have some of the elements for a family-centered model of legal representation for parents. If not, you will have to start from scratch. A good place to start is with your Court Improvement Project’s Advisory Committee. If your state does not have one, consider forming a special task force consisting of child welfare agency leaders, representatives from the state/county court, the public children’s and parents’ representative, social service agencies, lawyers, and parents who have been involved with the child protection system. If consensus can be reached, such a collaborative group, despite its unwieldy nature, is power-

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*Better parent representation should decrease children’s length of stay in out-of-home care, thus reducing foster care costs.*

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### **Compensation**

Lawyers for parents should be paid at the same level as lawyers for the state and for children in child abuse and neglect proceedings. This is a challenge in systems where the lawyers come out of the chronically underpaid public defense system.

One approach is to have separate appropriations for criminal defense and children, youth and families, even if both are housed under the same public defense system. Experience shows that legislators are more apt to want to support families than accused criminals.

Another approach would be to connect the system with specialized law school clinics, where a shared pool of blended state/county/university and private foundation funding could meet the need while training new lawyers in this work.

The funding could also come from Title IV-E through some creative application, such as the child welfare agency identifying parent representation as an essential child welfare service and contracting for these services.

Adequate compensation, including benefits, enables lawyers to choose this work as a career with upward mobility. It permits them to increase their skills and improve their representation, which ultimately benefits children.

zation must establish performance measures that ensure goals are met.<sup>7</sup> A case management and performance-based system will help achieve results, such as shortened timeframes between legal events, successful reunification, and successful use of alternative dispute resolution tools. It will also help managers analyze system improvements.

The organization will also be responsible for setting attorney caseloads that give lawyers enough time with each parent to create a trusting relationship, represent the parent in court, and follow up on social service delivery and effectiveness. The organizational structure should be linked either to a family advocate in the community or include paralegal support for the lawyer.

### **Family Advocates or Paralegal Support**

Two different models of ancillary parental support were proposed:

1. *Community-Based Family Advocates/Resource Consultants* are parents who have gone through the system and are familiar with what works. They mentor parents from their first involvement with the child protection system to ensure they understand what is expected of them

ful with the legislature or other body responsible for appropriations. An outside facilitator may help the group reach consensus.<sup>10</sup>

The action plan should:

identify why the current system acts as a barrier to safety and permanency for children;

outline what steps will be taken to create an administrative structure which ensures parents' attorneys are trained, supervised, supported, and held accountable;

identify possible funding sources;

develop budgets;

establish timeframes;

identify who is responsible for each step of the plan.

## Conclusion

Parent representation in child protection cases in most states does not meet parents' needs, is not accountable for results, and is a barrier to permanency for children. Systemic changes are needed to improve outcomes for children, meet ASFA timelines, and ensure fairness. Incorporating a family-centered model with the characteristics described in this article will raise the quality and fairness of representation parents receive, and hopefully shorten the time children spend in foster care.

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*Trine Bech, Esq.*, was the Permanency Planning Director for the Vermont Court Improvement Project of the Vermont Supreme Court from November 1997 to April 2000. She is now the Deputy Director for the Delaware Division of Family Services.

## Endnotes

1. St. Albans Consumer Advisory Board Meeting Minutes, November 5, 1998; see also William McGrath, MA and John Burchard, PhD, Process Characteristics of the Chittenden County Family Court, November 19, 1999 where 10 families were extensively interviewed and rated their trust for their lawyer as 1 on a scale from 0-4.

2. Casey Family Services, Vermont Division, currently facilitates Making Action Plans (MAPS) in court-related child protection cases in four Vermont counties. MAPS is a voluntary process for parents that consists of six steps that are facilitated by a neutral person: history, who you are, dreams, fears, current and future needs, and creation of a plan. An evaluation is in progress, but so far no type of case has been found categorically inappropriate.

3. The Adoption and Safe Families Act, P.L. 105-89, signed into law in November 1997. It amended the federal foster care law, Titles IV-B and IV-E of the Social Security Act, making safety and permanency the primary focus of the law.

4. For a description of mediation and family group decision-making tools, see National Council of Juvenile and Family Court Judges. *Technical Assistance Bulletin 2:7*, November 1998; Hon. Leonard Edwards. "Dependency Court Mediation." *Family and Conciliation Courts Review* 35:2, April 1997, 160-163; American Humane Association, Children's Division. "The Practice and Promise of Family Group Decision Making." *Protecting Children* 12:3, 1996; National Council of Juvenile and Family Court Judges, Permanency Planning for Children Project. *Diversion Project Matrix: A Report from Four Sites Examining the Court's Role in Diverting Families from Traditional Child Welfare Services into Community-Based Programs*, 1998.

5. For training sources, contact the the ABA Center for Children and the Law, 202/662-1720, the National Council of Juvenile and Family Court Judges, 775/327-5300; and the Child Welfare League of America, 202/638-2952.

6. ABA Center on Children and the Law. "Cluster Courts: Innovative Court Reform for Rural Areas." *ABA Child Court Works* 3:2, July 1999.

7. Friedman, Mark. *A Guide to Developing and Using Performance Measures in Results-Based Budgeting*. Washington, DC: The Finance Project, May 1997, for an example of a framework for establishing performance measures.

8. For further information, contact the Rutland County Family Court, 83 Center Street, Rutland, VT 05701, 802/786-5856.

9. For another example of effective use of ex-clients of the child welfare system, contact the Annie E. Casey Foundation, 410/547-6600, about the Sobriety Treatment and Recovery Team (START) project at the Cuyahoga County Department of Child and Family Services, Cleveland, OH.

10. In Vermont, the facilitated conference broke a longstanding impasse among the stakeholders and created consensus for a proposal for reform. This proposal includes all elements described in this article, and is now being considered by the Vermont Legislature.



## New On the Web

### Child Protection Law Reform Bulletin Board

This new addition to the ABA Center on Children and the Law's web site is a forum for sharing thoughts about fundamental child protection systemic reforms. Discussions focus on how laws, as well as government agency practices and procedures, can better address prevention and intervention in child abuse and neglect cases. You need not be a lawyer or judge to view, create, or react to bulletin board messages.

To access the bulletin board:

1. Go to the Center's web site: <http://www.abanet.org/child>
2. Click "Child Protection Law Reform Bulletin" from the menu.
3. Read and agree to the bulletin board's ground rules.
4. After agreeing to the rules, you'll enter the bulletin board.



# Effects of an interdisciplinary approach to parental representation in child welfare

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## ARTICLE INFO

### Keywords:

Foster care  
Juvenile court  
Parents' right to counsel  
Family reunification  
Permanency

## ABSTRACT

This study utilizes a quasi-experimental propensity score matching design to assess the causal impact on child welfare outcomes when parents facing an abuse or neglect case in the New York City Family Court were provided interdisciplinary law office representation as opposed to a standard panel attorney. The interdisciplinary law office approach includes social work staff and parent advocates for the parent, and salaried attorneys working in nonprofit organizations. Using administrative child welfare data, the study assesses the foster care and safety outcomes of 9582 families and their 18,288 children. The propensity score matched results do not indicate a preventive effect toward foster care entry nor any difference in children's likelihoods of experiencing a subsequent substantiated report of maltreatment. However, when children's parents received the interdisciplinary representation and those children did enter foster care, children spent 118 fewer days on average in foster care during the four years following the abuse or neglect case filing. Subsequent competing risk models show that children whose parents received the interdisciplinary law office model achieved overall permanency, reunification, and guardianship more quickly. These results provide evidence that interdisciplinary law office parental representation is an effective intervention to promote permanency for children in foster care.

## 1. Introduction

Many national child welfare and legal experts believe that effective representation for parents in child welfare cases serves the vital purpose of engaging parents, supporting the safety and well-being of children and families, reducing the need for foster care, and saving government dollars (e.g., [American Bar Association, 2017](#)). Parents involved in child welfare court cases face steep challenges navigating the court process. The vast majority of child welfare-involved parents live in poverty, and often extreme poverty ([Hastings, Taylor, & Austin, 2006](#)). Compared to the general population, child welfare-involved parents have lower educational attainments, lower incomes, and are more likely to be socially isolated and learning disabled ([Azar, Maggi, & Proctor, 2013](#); [Phillips & Dettlaff, 2009](#)). A disproportionate number are parents of color, particularly African-American and Native American parents, and

live in disadvantaged communities ([Libby et al., 2007](#); [Roberts, 2002](#)). Few parents have experience in advocacy, knowledge of the rules of family court, or of their rights as parents.

Only thirty-nine states have a categorical right to counsel for parent respondents in child protection proceedings in family court ([Right to Counsel Map, 2016](#)). Even where parents have the right to counsel, few jurisdictions in the country have secured steady funding for parental representation and the quality and practice of parental representation in many jurisdictions can be described as inconsistent at best ([American Bar Association, 2009](#)). The dearth of quality representation is one factor that may lead to parents and their children experiencing unnecessary removals into foster care, and needless, lengthy and often devastating delays in reunifying ([American Bar Association Center on Children and the Law, 2009](#)).

In recent years, support for parental representation in child welfare

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<https://doi.org/10.1016/j.childyouth.2019.04.022>

Received 14 February 2019; Received in revised form 18 April 2019; Accepted 18 April 2019

Available online 20 April 2019

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has grown nationally. The American Bar Association's (ABA) National Alliance for Parent Representation works to improve “the practice of parents' attorneys... and [to build] a national community of parents and parents' attorneys” (American Bar Association, 2017). The ABA's Family Justice Initiative “unites professionals from around the country to ensure every child and every parent has high-quality legal representation when child welfare courts make life-changing decisions about their families” (Heimov, Laver, & Carr, 2017). In 2017, the Children's Bureau within the U.S. Department of Health and Human Services (DHHS) released a memo encouraging all child welfare agencies and courts to ensure all parties within child welfare proceedings receive high quality legal representation (Administration on Children, Youth, and Families, 2017). At the end of 2018, the U.S. DHHS announced an amendment to the Child Welfare Policy Manual which, for the first time, allows state child welfare agencies operating pursuant to Title IV-E of the Social Security Act to seek reimbursement from the federal government for administrative costs for attorneys to provide legal representation to parents and children in child welfare cases.

In this context, the present study brings empirical evidence to policymakers regarding how *the kind* of parental representation a child welfare court system provides impacts children and their parents. This study presents a strong “quasi-experimental” evaluation of the impact of parental legal representation on permanency and safety outcomes for children and families. New York City offered a rare opportunity to test the impact of two models of representation provided to parents, as the courts gradually assigned more child welfare cases to interdisciplinary law offices as opposed to panels of solo practitioner attorneys. We therefore compared the outcomes of similar, concurrent groups—where parent respondents received interdisciplinary representation and solo legal representation—through propensity score matching. These conditions allowed us to estimate the causal effects of this approach to parental legal representation on several critical child welfare outcomes. We ask the following: *Are children—whose parents are respondents in child abuse or neglect petitions filed in the New York City Family Court and are eligible for court-assigned counsel—more likely to be quickly, safely, and permanently kept together with their families if their parents are represented by interdisciplinary law offices compared to children of similar families whose parents are represented by panel attorneys?* As such, this study adds to the literature about the effects an interdisciplinary approach to parental representation in child welfare has on outcomes for children and families.

## 2. How interdisciplinary parental representation may impact child welfare outcomes

### 2.1. Literature review

Stakeholders, including the ABA and the Children's Bureau within the U.S. DHHS, promote an interdisciplinary team approach to parental representation that includes out-of-court engagement. In 2006, the ABA approved Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases [Practice Standards]. These standards “are intended to promote quality representation and uniformity of practice for parents' attorneys in child abuse and neglect cases” (Thornton & Gwin, 2012). The Practice Standards emphasize appointing an attorney early in the court process and encouraging attorneys to engage parents outside of court, using an interdisciplinary approach. An interdisciplinary approach incorporates additional professionals into the legal team, such as social workers, parent advocates, interpreters, specialized attorneys, experts, and investigators. These team members can address issues outside the courtroom to support the family unit: applying for public benefits, representing a client in criminal court, employment training, mental health counseling, and substance abuse treatment among others. The additional support these team members provide might allow children to return home sooner or avoid foster care placement altogether.

Though several jurisdictions have piloted parental representation programs based on the Practice Standards, only one program has received significant attention from evaluators: the Washington State Office of Public Defense, which implemented the Parent Representation Program pilot in 2000. The Parent Representation Program created selection criteria for attorneys and attorney caseload and practice standards, increased attorney compensation, assured attorneys' access to expert services and social workers, and supplied ongoing training and oversight. Program designers theorized that adequate parental representation would improve the likelihood of parents' receiving needed services and thus speed up reunification. Additionally, stakeholders believed that the trust between attorney and parent would facilitate guardianship or adoption in situations where parents were unable to meet the court's requirements for reunification. The program was initially evaluated through court record reviews and subsequently through quasi-experimental administrative data analysis (Courtney & Hook, 2012; Oetjen, 2003). The latter evaluation indicated that the implementation of the Parent Representation Program reduced the time children spent in foster care through speeding the time to all permanency outcomes.

However, the strongest quasi-experimental study of improved parental representation—by Courtney and Hook (2012)—was limited due to the nature of the program's implementation and could only tentatively establish the causal impact of parental representation. While other empirical studies concerning parental representation in child welfare support the theory that enhanced parental representation leads to faster permanency outcomes for children and improved court efficiency, each study had limitations (see Table 1). To date, there has been no “promising research evidence” for any models of parental representation according to The California Evidence-Based Clearinghouse for Child Welfare (2018). No parental legal representation program is even rated on the clearinghouse.

The Washington study, furthermore, could not disentangle the effect of numerous ABA best-practices in parental representation applied by the innovative program. In contrast, this study isolates the impact of an interdisciplinary law office approach, in a court system where issues like timely appointment of attorneys, selection criteria for attorneys, caseload and practice standards, attorney compensation, ongoing training and oversight are addressed well. Every element that made Washington's program innovative applies to both models of parental representation operating in New York City. Thus, independent of other ABA best-practices, program stakeholders in New York City posit that the interdisciplinary case practice model increases stable and safe reunification, shortens lengths of stay in foster care, and often avoids foster care placements entirely—through advocacy in and out of court.

### 2.2. ILO theory of change

Why would an interdisciplinary law office approach to parental representation impact these child welfare outcomes? Program designers theorize that social work staff primarily contribute to these outcomes by advocating for parents at child welfare agency meetings at which decisions around child removal and service plans are made, and connecting parents to needed and appropriate services early on in the case. Then, during a case, social work staff may voice a parent's concerns with particular items in a service plan, paring down or tailoring services to meet a parent's schedule or other needs; this may mean that a parent's service plan contains only absolutely necessary services or services a parent can more readily complete, facilitating reunification more quickly. Social work staff may also address issues outside the courtroom to support the family unit, like applying for public benefits, arranging for representation in criminal court, employment training, mental health counseling, and substance abuse treatment. Comprehensively addressing these issues earlier in the case might allow children to return home sooner or avoid foster care placement altogether. These interdisciplinary services which complement the representation in the

**Table 1**  
Key findings from parent legal representation studies.

Program location and name	Research design highlights	Key findings
California and Colorado	Analyses of approximately 500 dependency cases across California ( $N = 403$ ) and Colorado ( $N = 119$ ) using a quasi-experimental design (Wood & Russell, 2011).	<ul style="list-style-type: none"> <li>• Cases were significantly more likely to result in reunification when the mother's attorney was present at early hearings or the father's attorney was present at the disposition hearing.</li> </ul>
Detroit: Center for Family Advocacy (CFA) (Launched by the University of Michigan Law School)	Longitudinal study with no comparison group (The Detroit Center for Family Advocacy, 2013).	<ul style="list-style-type: none"> <li>• No children entered foster care of the 110 children served in prevention cases.</li> <li>• 88% of children achieved legal permanency and no families had a new report of abuse or neglect within the pilot study period, of the 128 children in permanency cases.</li> </ul>
Minnesota: William Mitchell Clinic Child Protection Program	Comparison of the counties where the program is located with other MN counties (Haight, Marshall, & Woolman, 2015).	<ul style="list-style-type: none"> <li>• Families in the program had a foster care reentry rate of 7% annually, while comparison data for all of MN shows 12.7%.</li> <li>• Parents in the system reported feeling more supported and were more willing to partner with the county.</li> </ul>
New Mexico Family Advocacy Program	Compared outcomes of cases before implementation with those cases after implementation. <sup>a</sup>	<ul style="list-style-type: none"> <li>• Prior to implementation, time to permanency increased over time for all cases in the time period 2007–2012. After implementation (2013–2017), time to permanency decreased for all cases.</li> <li>• Terminations decreased after implementation. Reunifications did not see a significant increase; guardianships and relinquishments increased.</li> </ul>
Vermont Parent Representation Center (VPRC)	Longitudinal study of 26 families with no comparison group (Sankaran & Raimon, 2014).	<ul style="list-style-type: none"> <li>• In 79% of cases, children did not enter foster care. Of those children who entered foster care, 50% were assisted to early reunification.</li> <li>• VPRC estimates that it saved public systems \$315,750 through its work, though the potential cost savings need to be more fully developed.</li> </ul>
Washington State Office of Public Defense, Parent Representation Program <sup>b</sup>	<p><i>Early pilot study:</i> Compared outcomes of three groups: (1) 57 pre-pilot cases, (2) 48 cases opened before the implementation of the pilot but closed after implementation, and (3) 39 cases opened after the implementation (Oetjen, 2003).</p> <p><i>Northwest Institute for Children and Families evaluation (N = 334):</i> Compared dependency cases opened and closed prior to implementation and after implementation (Harper, Brennen, &amp; Szolnoki, 2005).</p> <p><i>University of Washington study:</i> Followed 12,104 children who entered foster care for the first time in 2004 to 2007 through the end of 2008. A quasi-experimental design was used where OPD counties were compared to non-OPD counties using Event History Analysis (Courtney &amp; Hook, 2012).<sup>c</sup></p>	<ul style="list-style-type: none"> <li>• A significant decrease in the amount of time that family cases were open.</li> <li>• Significant decreases in the amount of time that youth spent in foster care.</li> <li>• A significant increase in the likelihood of family reunification.</li> <li>• Improved parent participation and better access to services.</li> <li>• Increased family reunifications, fewer reunification failures and case re-filings, and reduced time to all permanency outcomes.</li> <li>• Fewer court continuances.</li> <li>• Children whose parents were represented by OPD attorneys achieved permanency faster.</li> <li>• In OPD counties, children achieved reunification about a month sooner and other permanency options about a year sooner.</li> </ul>

<sup>a</sup> Data abstracted from the New Mexico Judiciary case management system (Odyssey<sup>®</sup>) by tracking outcome codes after the close of a case and time to permanency in days from the time counter (Personal Communication, Beth Williams, October 15, 2018).

<sup>b</sup> An independent agency of Washington's judicial branch, the Washington State Office of Public Defense (OPD) offers a parent representation program that provides state-funded attorney representation to indigent parents in dependency and termination cases.

<sup>c</sup> One notable feature of the Washington state study was that the research design took advantage of the staggered implementation of the PRP across Washington's counties. The statistical models leverage this variation in implementation by simultaneously comparing across counties with and without the PRP, and comparing within counties prior to and post PRP implementation to isolate an effect associated with the PRP. See Courtney and Hook (2012), p. 1339.

underlying child welfare matter constitute what is often called “holistic” practice. Evidence from other areas of law, notably criminal defense, supports the theory that holistic defense improves outcomes for defendants without impacting public safety; a recent large-scale quasi-experimental study found that holistic criminal defense reduced incarceration with no effect on recidivism when compared against a more traditional defense model (Anderson, Buenaventura, & Heaton, 2018).

Defenders of the panel model believe that rather than holistic practice, seasoned litigators improve child welfare outcomes for families (Commission on Parental Legal Representation, 2018). These stakeholders note that panel attorneys often have more and broader experience than ILO attorneys who are often recent graduates from law school. Panel attorneys use social workers or other professionals as part of their defense team in a minority of cases; therefore, some argue that the interdisciplinary work is not needed as often as the ILOs provide it. Consequently, these stakeholders argue that one would not expect to see any difference in case outcomes overall as most parents do not benefit from the interdisciplinary model.

This study assesses the impact of parental representation on foster care entry, time in foster care, and safety outcomes using a stronger

causal design than prior research, and isolates the effect of an interdisciplinary law office approach. In doing so, this study builds on the literature on parental representation in child welfare cases and provides policymakers with critical information to inform what kind of parental representation should be provided in child welfare cases.

### 3. Parental representation in New York City

Since 1972, parents charged with neglect or abuse in Family Court in New York who are unable to retain counsel have the right to free, court-assigned counsel (*In Re Ella B*, 1972). Originally based on a ruling in the New York State Court of Appeals, the New York State Legislature codified the right to counsel in a range of family law proceedings in 1975. Between 1972 and 2007, attorneys from a panel administered by the First and Second Departments of the New York State Supreme Court Appellate Division represented all parents in the New York City Family Court who received court-assigned counsel. These attorneys, colloquially named “18-B attorneys” after the section of New York County Law that describes their function, are experienced private practitioners who successfully applied to join the panel. Only attorneys with a minimum

number of years of trial experience and a knowledge of substantive and procedural law involving a broad range of matters heard in Family Court may be appointed. The New York City court system is partitioned into five distinct courts by borough, so each court has its own panel. Panel attorneys represent parents in child protection proceedings, as well as children in these proceedings, and adults in other matters heard in the Family Court, including domestic violence, custody, and visitation disputes.

As private practitioners, panel attorneys individually manage the administration and maintenance of their practices. Attorneys must provide for their own benefits, malpractice insurance, and overhead costs. Many panel attorneys have served on the panel for decades, and they may practice law in other areas outside of child protection cases, adding to their expertise. In the New York City Family Court, panel attorneys operate as solo practitioners without any professional colleagues as invariable parts of their teams. When a panel attorney perceives the need for a professional colleague, such as a social worker, the attorney may apply to the court for an order authorizing them to engage the services of the professional and bill the court for the professional's time. These orders are routinely granted when requested. Current rates for panel attorneys in Family Court proceedings—set in 2003—are \$75 per hour for in-court and out-of-court time to a maximum of \$4400 per case, though the case maximum may be waived.

In 2007, the New York City Mayor's Office of Criminal Justice, the office responsible for payment of legal services for indigent parents in Family Court proceedings, entered into contracts with three nonprofit organizations to provide interdisciplinary legal defense for parents in Family Court. These organizations are the Center for Family Representation, the Family Defense Practice of Brooklyn Defender Services (formerly of Legal Services New York City), and the Bronx Defenders. In this article, we refer to these organizations collectively as *interdisciplinary law offices* (ILOs). Each organization is authorized to practice in a different county: the Center for Family Representation in New York County (Manhattan), Brooklyn Defender Services in Kings County (Brooklyn), and the Bronx Defenders in Bronx County (the Bronx). In 2011, the Center for Family Representation was awarded an additional contract for Queens County (Queens). Since 2007, these offices have operated concurrently with the panels in Brooklyn, the Bronx, and Manhattan, and, since 2011 in Queens.

Each ILO has some distinct features, but the organizational structure of the three offices differs substantially from panel attorneys. *First*, unlike panel attorneys, lawyers in the ILOs specialize in child welfare cases and represent only parents in those matters. *Second*, each provider is a nonprofit organization—contracted for up to a certain number of cases through the New York City Mayor's Office of Criminal Justice and supplemented with each organization's private fundraising efforts. Nonprofit law offices are paid a set fee per case specified in each organization's contract, regardless of the number of hours worked. *Third*, the attorneys in these offices are employees of the organization and paid a salary with benefits. *Fourth*, the offices offer administrative support and central office locations. *Fifth*, the lawyers in these offices have supervising attorneys and colleagues, allowing the staff to collaborate on complex cases and to appear in court for one another when a principal lawyer is unavailable. *Finally*, as the phrase “interdisciplinary law office” suggests, these offices all have non-attorney professional employees on their paid staff who work with the attorneys. All providers also have the capacity to administer some other legal services in criminal, civil, and immigration cases through additional government contracts.

Both the panel and ILO models comply with many ABA best-practices. Notably, judges typically assign each parent an attorney at the parent's first appearance in court, often the same day or within a few days of when a neglect or abuse petition is filed. In many jurisdictions outside of New York, attorneys are not appointed until later in the court process when important decisions may have already been determined. Both the panel attorneys and the ILOs appear on every court

appearance with their clients, and advocate on behalf of their clients. Both kinds of attorneys represent accomplished and highly proficient practitioners selected based on their strong qualifications to serve in their respective positions. Payment rates for both kinds of attorneys offer the ability to earn a fair wage without exceeding common case-load standards.

The most significant difference between the ILOs and the panel attorneys is the interdisciplinary case practice approach the contracted providers utilize. While both types of attorneys appear in court with their clients, the ILOs' team-based approach to representation focuses greater attention on out-of-court advocacy. With the interdisciplinary case practice model, each attorney teams with a social worker and/or a parent advocate. Parent advocates are staff members who have themselves faced proceedings in the Family Court as parents, though the role description varies by office. Some providers have additional experts on staff, as well: attorneys to represent clients in criminal, housing, and immigration court; experts who focus on troubleshooting public assistance, educational issues, and other government systems; paralegals; and investigators.

Activities foundational to the interdisciplinary approach include attending parent-agency meetings, and helping to shape service plans by identifying the needs of each family and tailoring the service plan to meet those needs (Stone-Levine, 2012). The goals of the model are accomplished primarily through a focus on the early part of a case coupled with advocacy by the team on critical elements including visiting arrangements for children and their parents that are as frequent and long as possible and in natural settings; placement arrangements that support a child's connection to family; services that address a parent and child's strengths and needs; and, conferences and meetings that occur out of court and provide opportunities for parents and older youth to participate in their case planning (Cohen & Cortese, 2009).

#### 4. Research methods

As mentioned earlier, we asked the following: *Are children—whose parents are respondents in child abuse or neglect petitions filed in the New York City Family Court and are eligible for court-assigned counsel—more likely to be quickly, safely, and permanently kept together with their families if their parents are represented by interdisciplinary law offices compared to children of similar families whose parents are represented by panel attorneys?* We addressed our research question about the impact of ILO parental representation on child welfare outcomes by following the trajectory of 9582 families and their 18,288 children. We relied on Propensity Score Matching (PSM) to estimate causal effects on families' outcomes, through limiting observable differences between the two groups (Rosenbaum & Rubin, 1983). To explain those results, we conducted additional exploratory analysis using competing risk models (Fine & Gray, 1999).

##### 4.1. Sample

To build our sample, we started with all children named in child abuse or neglect petitions in the New York City Family Court (referred to as Article 10 cases in New York) filed from 2007 to 2014 where ILOs had contracts. ILOs do not have contracts for cases in Staten Island and contracts in Queens began in 2011, thus we eliminated Staten Island cases as well as Queens cases before 2011. We selected this group in order to include all families who come into contact with one of the two models of parental representation—not only those children who enter foster care. By looking at this broader group, we could assess the impact of representation type on foster care entry.

We then limited our sample to create clearer comparisons between the two models. *First*, we limited our sample to each family's first petition in the data, so that each family is included only once in the sample. This criterion eliminated families who might have received both types of representation over time. Limiting to first petitions

captured the bulk of cases while providing the clearest comparison between the two models. *Second*, we included only single-respondent cases. A single-respondent case means that only one caregiver is charged with neglect or abuse in the case. In a dual-respondent case (meaning that two caregivers are charged), either two panel attorneys, or a panel and an ILO attorney may represent the two caregivers. Dual-respondent cases never experience only the ILO model, which would muddy comparisons. In less than 1% of cases, there were more than two respondents in a case, and these cases were excluded from the study for the same reasons. *Third*, we excluded a small number of cases where private attorneys represented respondents, because these parents would not be eligible for court-appointed counsel. *Fourth*, we excluded cases with an attorney change from one model to another, as similar to dual-respondent cases, these cases would experience both of the models, so we would not be able to attribute the case outcomes to a particular type of representation.

Our final sample comprised all children named in a family's first single-respondent Article 10 petition in the New York City Family Court filed from 2007 to 2014 where ILOs had contracts, and where the child's parent was represented by either an ILO or a panel attorney. This sample contained 9582 families and their 18,288 children, and we followed each case until the end of our data extract on December 1, 2017. We compared, as our *treatment* group, the ILO model of representation for the parent, and, as our *comparison* group, the panel attorney model of representation for the parent. [Appendix A](#) discusses further how we arrived at our sample and how we handled missing data.

## 4.2. Data and measures

### 4.2.1. Data sources

We constructed our sample and measures from two data sources: [1] administrative data provided by the New York City Administration for Children's Services (ACS), and [2] attorney rosters from each of New York City's panels and ILOs. To acquire these data, we obtained approval from the ACS, the New York State Office of Children and Families (OCFS), Solutions IRB, and the Casey Family Programs Human Subjects Review Committee. As the administrative data contained only the names of the parents' attorneys but not the attorneys' organizations, we obtained attorney staff rosters from each of the ILOs as well as panel rosters from each of the panels. Matching the attorney names in the administrative data to the attorney names from the staff rosters, we created a binary field denoting whether an ILO or panel attorney represented the parent in each case. Our matching procedure identified 169,841 of the 174,866 total attorney records (97.1%) in the administrative data. Further information on our matching procedure is available upon request.

### 4.2.2. Outcome measures

The stated goals of parental representation with respect to child welfare outcomes are to keep more families together safely, and to decrease the time children spend in foster care. We, therefore, decided to measure the following *outcomes* after discussions with stakeholders: [1] whether any children in the family entered foster care in the 24 months following Article 10 petition filing, [2] the average number of days that children in the family spent in foster care in the 48 months following Article 10 petition filing, and [3] whether any children in the family were victims of a substantiated investigation of child maltreatment in the 24 months following Article 10 petition filing.

With the *first* outcome, we hypothesized that fewer children would enter foster care when their families received ILO representation as compared to panel representation. Most children named in child abuse and neglect court proceedings in New York City do not enter out-of-home care. Of the 18,288 children included in this study, only 7441 (41%) entered foster care through 24 months of petition filing. We operationalized the outcome as whether any of the children who were

not in care at the time of the petition filing entered care in the subsequent 24-month period. We followed the trajectory of 8452 families and their 16,500 children from the date of petition filing for a period of 24 months. To arrive at 8452 families, from our initial sample of 9582 families, we eliminated [1] families where all the children had already entered foster care as of the petition filing as these families had no children for whom representation could prevent foster care entry and [2] families with judges who only presided over cases of one representation type among this sample as these judges would be a "perfect predictor" of representation type, violating the assumptions of PSM.

With the *second* outcome, we hypothesized that children would spend fewer days in foster care when their families received ILO representation as compared to panel representation. We used a 48-month timeframe as New York City has longer lengths of stay in foster care than most other jurisdictions. We operationalized the outcome as the average number of days children in the family spent in foster care during the subsequent 48-month period after petition filing. In our calculations, trial discharge is not considered time spent in foster care, because the child is living at home and foster care board payments for the child are suspended. We later extrapolate the results for only children who entered foster care. For this analysis, we followed the trajectory of 6952 families and their 13,268 children from the date of petition filing for a period of 48 months. To arrive at 6952 families, from our sample of 9582 families, we eliminated [1] families whose cases were filed in 2013 and 2014 as we did not have four full years of follow-up data and [2] families with judges who only presided over cases of one representation type among this sample. Related to this outcome, we conducted further exploratory analysis to understand the relationship between ILO representation and the time to various exits from out-of-home care with more nuance than the number of days children spent in foster care. We hypothesized that reunification, guardianship, and overall permanency (defined as any exit to reunification, guardianship, or adoption) would occur faster and had no defined hypothesis about adoption or aging out of care.

The *third* outcome measures the safety of the children, through a proxy of whether any children were victims of a substantiated investigation of child maltreatment following the Article 10 petition filing. We hypothesized that children whose parents are represented by ILO attorneys will be no more likely to be a victim of repeat maltreatment than children whose parents are represented by panel attorneys. We followed the trajectory of 9539 families and their 18,189 children from the date of petition filing for a period of 24 months. We used all of the families in our sample, except 43 families with judges who only presided over cases of one representation type among this sample.

### 4.2.3. Matching characteristics

To estimate propensity scores for the three outcomes, we chose a range of covariates about each family that prior research, our understanding of the New York City child welfare system, our fieldwork (see [Appendix B](#)), or descriptive analysis demonstrated were associated with attorney assignment or any of the three outcomes. Below we describe these covariates. We converted all variables listed in [Tables 2–4](#) into a series of dummy variables unless we specify "the number of" in the field below.

We included covariates about the family's court case: [1] *petition type (abuse or neglect)*, [2] *petition filing year*, [3] *court borough*, [4] *the judge assigned to the case*, and [5] *the allegation types listed in the petition*. Petition filing year is important as system-wide policy changes or events may affect children's outcomes ([Kramer, 2018](#)). Each court borough in New York City differs in its culture, and each judge has wide latitude in attorney assignment and case decisions ([Lee, 2016](#)). Research shows that the reason for removal is associated with a child's length of stay in foster care, so we included the allegation types listed by the ACS attorney in the Article 10 petition ([Akin, 2011](#)). The specific allegation

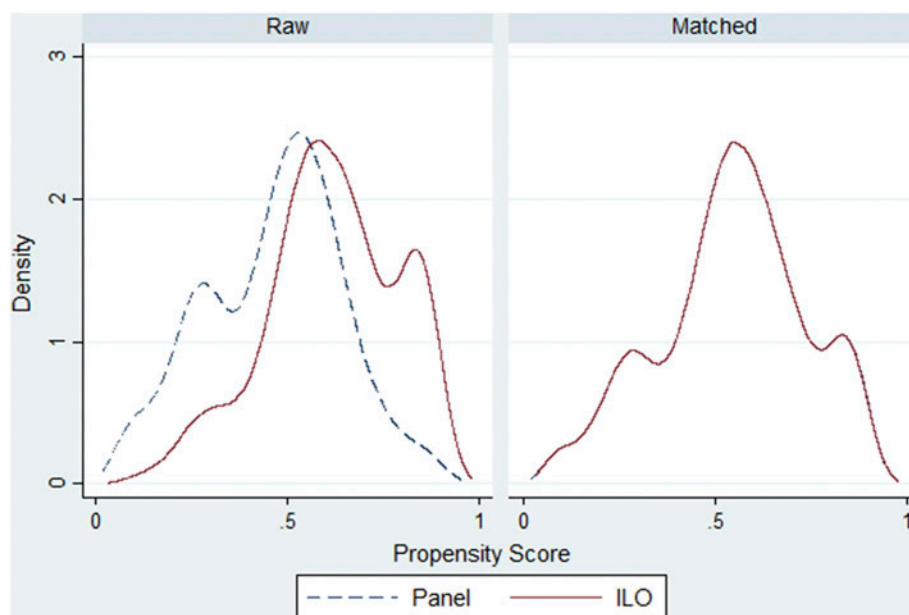


Fig. 1. Analysis 2, Kernel density plot of the propensity score.

types are listed in Table 2.

We further included relevant information on the respondent parent in the petition. As we isolated single-respondent cases, there is only one parent in each case. *First*, we included the respondent parent's child welfare history prior to the filing: [6] the number of substantiated CPS investigations in which the parent was a perpetrator, [7] the number of days the parent spent in foster care as a child, [8] the number of times the parent exited foster care as a child, and [9] whether the parent was in foster care themselves at the time of the filing. Previous maltreatment reports and parental foster care involvement are often related to future child welfare involvement (Putnam-Hornstein & Needell, 2011; Stith et al., 2009; Wall-Wieler, Brownell, Singal, Nickel, & Roos, 2018). *Second*, we included the respondent parent's [10] age, [11] sex, and [12 and 13] race and ethnicity. These factors have been shown to be associated with our outcomes and may affect attorney assignment (Needell, Brookhart, & Lee, 2003; Wildeman et al., 2014; Wildeman & Emanuel, 2014). We collapsed the administrative data on parent and child race and ethnicity into categories from prior research; ethnicity was coded as a flag for individuals who identified as Hispanic/Latino (Courtney & Hook, 2012).

Though we matched families, characteristics of the children in the family remain important as predictors of attorney assignment and outcomes. We included [14] the number of children who were in foster care at the time of the filing, [15] children's sexes, [16] the number of children listed in the petition, [17] children's ages, and [18 and 19] children's races and ethnicities. We included these covariates for the reasons described above. For these variables, we included counts of the number of children in the family within each age, sex, and race and ethnicity group. The number of children from each family who were in care at the time of the filing affects how long those children spend in foster care and the likelihood of other children in the family who are not in foster care entering care. We added the number of children in the family as family size may affect outcomes as well.

### 4.3. Analytical approach

#### 4.3.1. Propensity score matching

We relied on Propensity Score Matching to estimate causal effects on families' outcomes, through limiting observable differences between the two groups (Rosenbaum & Rubin, 1983). The propensity score in this study is the likelihood of a family being assigned an ILO attorney

instead of a panel attorney, given a wide range of factors likely to influence assignment to different forms of representation and likely to affect outcomes. We assessed that the three assumptions of PSM were reasonably met. *First*, our unit of analysis was families and each family had a unique and independent case in the New York City Family Court in the sample, satisfying the independent and identically distributed (i.i.d.) sampling assumption. *Second*, the attorney assignment process involved primarily observable characteristics and we matched on a wide range of factors likely to influence assignment to different forms of representation and likely to affect outcomes, complying with the conditional-independence (CI) assumption (see Appendix B for more detail). We further conducted supplementary analyses to assess the consequences of any influential characteristics we may have excluded where applicable, including Rosenbaum Bounds analysis and other sensitivity analyses. *Third*, we conducted tests after the matching to verify that the overlap assumption held true.

To conduct the PSM, we used Stata 14's *teffects psmatch* package to estimate the average treatment effect (ATE) of a family having an ILO attorney on our outcome measures (*teffects psmatch*, 2018). We used nearest neighbor matching with replacement and a logistic treatment model. Following Austin (2011a), we used a caliper width of one-fifth of the standard deviation of the logit of the propensity score. We report the default robust standard errors estimated using two matches following the method derived by Abadie and Imbens (2006, 2011, 2012). The *teffects psmatch* procedure and standard errors correct for the fact that the propensity score is an estimate, an advantage over other approaches (*teffects psmatch*, 2018).

To test the covariate balance of our three propensity score matched samples, we *first* analyzed [1] kernel density plots of the propensity score, [2] box plots of the propensity score, and [3] whether the overlap assumption held. These methods—presented for Analysis 2 only (additional figures available upon request) in Figs. 1 to 3 showed strong balance on the propensity score among the matched samples and that the overlap assumption held for all three samples. If the kernel density plots of the matched data are similar between the treatment levels, we conclude that the PSM procedure balanced the data on the propensity score. If the median, the 25th percentile, and the 75th percentile of the box plot are similar between the treatment levels, we also conclude that the PSM procedure balanced the data on the propensity score. Lastly, excessive mass around 0 or 1 in the overlap graph would indicate the overlap assumption is violated as the two groups would have few cases

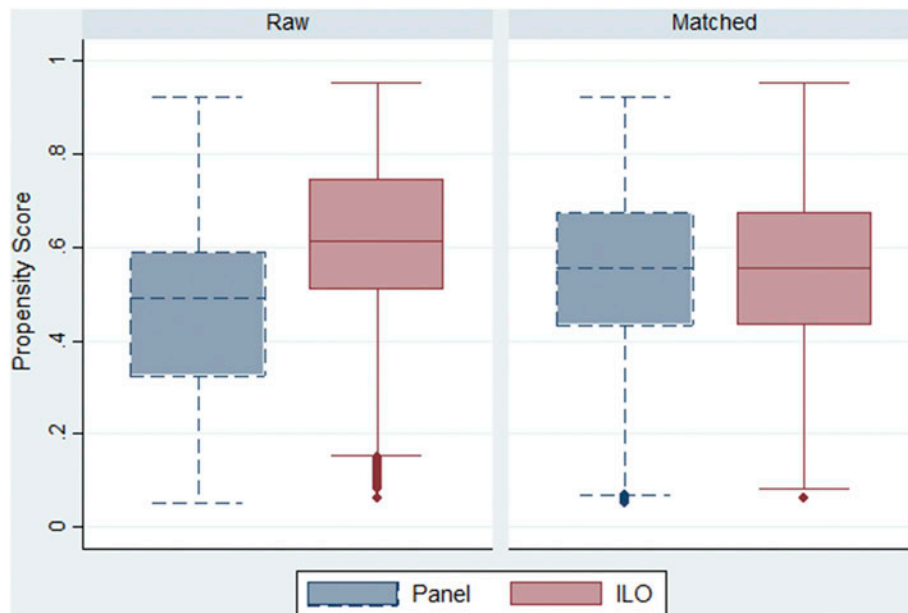


Fig. 2. Analysis 2, box plot of the propensity score.

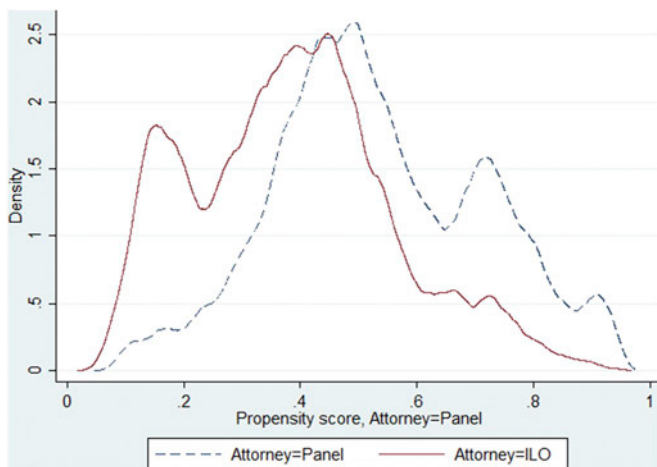


Fig. 3. Analysis 2, overlap graph.

in the region in which they overlap.

*Second*, we reviewed descriptive statistics before and after matching, the standardized differences, and the variance ratios of all covariates in each sample; these are shown in Tables 2–4 for Analysis 2 only, excluding the judge variable due to space (additional tables available upon request). The standardized difference of the mean is the difference in means between the two groups, divided by the pooled standard deviation. Variance ratios are the mean ratios of the variance in treated subjects to the variance in untreated subjects. Standardized differences close to zero and variable ratios close to one indicate that the PSM procedure balanced the covariate. Following Austin (2009), we considered absolute values of less than 0.1 to be within acceptable range for standardized differences. Following Rubin, we considered values of less than 0.5 or greater than 2 to be outside acceptable range for variance ratios (Rosenbaum & Rubin, 1983; Rubin, 2001; Stuart & Rubin, 2008). The standardized differences of the mean for the matched sample ranged from a low of  $-0.046$  to a high of  $0.055$  for Analysis 1, a low of  $-0.065$  to a high of  $0.049$  for Analysis 2, and a low of  $-0.054$  to a high of  $0.057$  for Analysis 3. These standardized difference values are all within acceptable range, indicating that the means of covariates were very similar between the two groups in the matched sample. The

variance ratios for all covariate variables ranged from 0.454 to 3.999 for Analysis 1, from 0.200 to 5.996 for Analysis 2, and from 0.305 to 2.000 for Analysis 3. These variance ratios are all within acceptable range except a few binary flags for judges: three flags in Analysis 1, four flags in Analysis 2, and two flags in Analysis 3. We note, however, that variance ratios are insignificant for binary variables (Rosenbaum & Rubin, 1983; Rubin, 2001; Stuart & Rubin, 2008). In sum, our analyses indicate that the matched sample eliminated any observed differences between families who were represented by ILO attorneys and panel attorneys.

#### 4.3.2. Competing risk models

In order to understand children's exits from foster care beyond the results from Analysis 2, we ran two sets of competing risk models (Fine & Gray, 1999). In addition to the sheer number of days children spent in foster care, we sought to understand whether children exited care sooner and the effect on the time to different exits from out-of-home care—reunification, guardianship, adoption, and aging out. Competing risk models are used to analyze the time to an event in the presence of other events that may impede the event of interest. Contrary to Cox regression which presumes the lack of competing events to the event of interest, competing risk models regress on the subdistribution of the hazard, a transformation of the cumulative incidence function (CIF). The coefficients estimated are subhazard ratios (SHR), interpreted the same as hazard ratios from Cox regression. These models have similarly been used in child welfare to analyze the time to permanency exits for children in foster care, with exit types as the “competing” events (Courtney & Hook, 2012).

The *first* model looked at the time to foster care entry from petition filing. We ran this competing risk model following 16,527 children over the span of our full data, with the same covariates included in our PSM models. This group of children is nearly identical to those in Analysis 1. As the independent and identically distributed (i.i.d.) sampling assumption no longer applied, we used individual children as the unit of analysis and report standard errors clustered by family. For this model, we used Stata 14's *stcrreg* package (stcrreg, 2018).

The *second* models looked at the time to various foster care exits from foster care entry. We ran a series of competing risk models following 8163 children who entered foster care over the span of our full data, with the same covariates included in our PSM analyses. While we did not re-calculate any covariates (e.g., age as of the petition filing),

**Table 2**  
Court characteristics of the study sample, Analysis 2.

Court variables	Raw (% or mean)		Matched (% or mean)		Balance			
	Panel	ILO	Panel	ILO	Std. difference of the mean		Variance ratio	
					Raw	Matched	Raw	Matched
[1] Petition type								
Abuse***	9%	7%	9%	7%	-0.09	-0.05	0.77	0.87
Neglect	91%	93%	91%	93%				
[2] Petition filing year								
2007***	30%	10%	19%	18%	-0.52	-0.03	0.42	0.96
2008**	13%	15%	14%	15%	0.08	0.01	1.18	1.02
2009	15%	16%	14%	16%	0.03	0.03	1.05	1.07
2010***	14%	17%	15%	15%	0.09	0.00	1.20	0.99
2011*	18%	20%	19%	20%	0.05	0.01	1.09	1.02
2012***	11%	22%	18%	17%	0.30	-0.02	1.76	0.96
[3] Court Borough								
Brooklyn***	40%	35%	38%	38%	-0.11	0.00	0.95	1.00
Bronx***	43%	33%	37%	38%	-0.19	0.02	0.91	1.01
Manhattan***	12%	24%	17%	18%	0.30	0.01	1.66	1.02
Queens***	5%	8%	7%	6%	0.13	-0.04	1.64	0.88
[5] Petition allegations								
Severe/repeated abuse	0%	0%	0%	0%	0.01	-0.01	1.39	0.63
Physical abuse	3%	3%	3%	3%	0.00	-0.03	1.01	0.83
Sexual abuse***	5%	3%	4%	4%	-0.10	-0.03	0.63	0.88
Failure to protect from physical abuse	0%	0%	0%	0%	-0.02	0.00	0.76	0.94
Failure to protect from sexual abuse*	1%	0%	0%	0%	-0.05	-0.01	0.46	0.82
Other**	14%	17%	16%	16%	0.07	0.01	1.15	1.02
Inadequate supervision**	68%	71%	71%	70%	0.07	-0.01	0.94	1.01
Drug use***	27%	23%	26%	25%	-0.09	-0.01	0.90	0.99
Alcohol use	8%	9%	9%	9%	0.04	0.02	1.11	1.07
Excessive corporal punishment***	18%	23%	21%	21%	0.12	0.02	1.19	1.02
Educational neglect	14%	13%	12%	13%	-0.03	0.03	0.93	1.06
Medical neglect**	8%	11%	9%	9%	0.08	0.00	1.24	1.00
Domestic violence	12%	12%	12%	12%	-0.02	0.00	0.95	1.00
Emotional neglect	3%	2%	3%	3%	-0.03	0.00	0.86	1.00
Mental illness***	14%	18%	15%	16%	0.12	0.02	1.25	1.03
Mental retardation	0%	0%	0%	0%	0.01	-0.01	1.16	0.91
Failure to plan	6%	6%	6%	6%	-0.03	0.00	0.90	0.99
Failure to provide adequate food/shelter/clothing	7%	7%	7%	7%	-0.01	-0.02	0.95	0.94
Abandoned baby	0%	0%	0%	0%	0.01	0.00	1.29	1.00
Derivative	2%	2%	1%	2%	0.01	0.03	1.07	1.28
N	3157	3795	6952	6952				

Asterisks indicate significant differences between ILO and Panel based on a chi-square test (binary) or independent samples t-test (continuous) before matching.

\*  $p < .05$ .

\*\*  $p < .01$ .

\*\*\*  $p < .001$ .

we included an additional covariate for the time from petition filing to foster care entry. Furthermore, we added covariates relevant only to children who entered foster care, notably placement type and foster care provider agency. Initially, we ran these models without time-varying covariates and found that the proportional subhazard assumption was violated. To correct the violation, we re-ran our models with the dependent variable—type of representation—as a time-varying covariate and report those results. Like in the model above, we used individual children as the unit of analysis and report standard errors clustered by family. Due to computational constraints, we used Stata 14's *stcrprep* and *stcox* packages; we additionally ran the model on time to adoption converting the time units to years, as opposed to days in all other models (Lambert, 2016; stcox, 2018).

## 5. Results

### 5.1. Analysis 1: Foster care entry

Analysis 1 showed a very small, non-significant effect ( $ATE = -0.007$ ;  $p = .608$ ), meaning the data did not support the hypothesis that ILO representation decreased children's chances of entering foster care when compared to panel representation (see Table 5).

We did not conduct a sensitivity analysis on Analysis 1, since the model showed no statistically significant effect.

### 5.2. Analysis 2: Days spent in foster care

Analysis 2 detected a statistically significant effect ( $ATE = -47.161$ ;  $p = .001$ ) of -47 days, meaning the data show that ILO representation decreased the average days children in each family spent in foster care by 47 days when compared to panel representation through 48 months of petition filing (see Table 5). According to this child average per family analysis, while a child will spend 339 days on average in foster care when represented by ILOs, a child will spend 386 days when represented by panel attorneys—47 fewer days with ILO representation.

Shown in Table 6, we recalculated this measure to estimate the effect per child, by weighting the family outcomes by the number of siblings in each family. This calculation produced a difference of 55 days per child. In order to assess the impact on children who entered foster care, we took these estimates per child and extrapolated that to only the children who entered out-of-home care (55 days divided by the percentage of children who entered care); given that Analysis 1 found no difference in whether children entered foster care, we can

**Table 3**  
Parent characteristics of the study sample, Analysis 2.

Parent characteristics	Raw (% or mean)		Matched (% or mean)		Balance			
	Panel	ILO	Panel	ILO	Std. difference of the mean		Variance ratio	
					Raw	Matched	Raw	Matched
[6] Number of substantiations before filing	1.7	1.7	1.7	1.7	0.00	0.01	1.01	1.11
[7] Number of days spent in foster care before filing <sub>s</sub>	225.8	268.7	268.1	251.4	0.05	-0.02	1.27	0.90
[8] Number of foster care exits before filing	0.2	0.2	0.2	0.2	0.02	-0.01	0.89	0.87
[9] In foster care at filing <sub>s</sub>	3%	2%	3%	3%	-0.05	0.01	0.73	1.07
[10] Age at filing								
<i>Less than 21</i>	11%	10%	11%	10%	-0.05	-0.01	0.89	0.97
<i>Age 21 to 25</i>	16%	15%	15%	16%	-0.04	0.01	0.94	1.02
<i>Age 26 to 30</i>	18%	19%	19%	18%	0.04	-0.03	1.06	0.95
<i>Age 31 to 35</i>	19%	18%	18%	19%	-0.02	0.02	0.96	1.03
<i>Age 36 to 40</i>	15%	15%	15%	15%	0.00	0.00	0.99	1.00
<i>Age 41 to 45</i>	10%	11%	11%	11%	0.03	0.01	1.09	1.04
<i>Age 46 to 50</i>	6%	7%	6%	6%	0.02	0.02	1.07	1.06
<i>Age 51 to 55</i>	2%	3%	3%	2%	0.03	-0.02	1.19	0.90
<i>Age 56 to 60</i>	1%	1%	1%	1%	0.01	-0.02	1.14	0.84
<i>Age 61 to 65</i>	0%	1%	0%	1%	0.02	0.01	1.41	1.20
<i>Age 66 and over</i>	1%	1%	1%	1%	0.00	0.01	1.02	1.14
[11] Sex								
<i>Male</i>	12%	12%	13%	12%	0.01	0.02	0.99	0.95
<i>Female</i>	88%	88%	87%	88%				
[12] Race								
<i>African-American</i>	58%	58%	59%	59%	0.00	0.01	1.00	1.00
<i>Native-American</i>	0%	0%	0%	0%	0.00	0.02	1.04	1.67
<i>Asian**</i>	2%	3%	2%	2%	0.07	0.03	1.55	1.18
<i>Multiracial</i>	3%	3%	3%	3%	0.01	0.00	1.07	1.02
<i>White</i>	20%	20%	20%	19%	-0.01	-0.02	0.99	0.97
<i>Unknown</i>	17%	16%	16%	17%	-0.02	0.00	0.96	1.00
[13] Ethnicity***								
<i>Hispanic/Latino</i>	38%	38%	38%	37%	-0.02	-0.01	0.99	1.00
<i>Non-Hispanic</i>	62%	62%	62%	63%				
N	3157	3795	6952	6952				

Asterisks indicate significant differences between ILO and Panel based on a chi-square test (binary) or independent samples *t*-test (continuous) before matching.

- \* *p* < .05.
- \*\* *p* < .01.
- \*\*\* *p* < .001.

**Table 4**  
Child characteristics of the study sample, Analysis 2.

Children characteristics	Raw (% or mean)		Matched (% or mean)		Balance			
	Panel	ILO	Panel	ILO	Std. difference of the mean		Variance ratio	
					Raw	Matched	Raw	Matched
[14] Sum of children in foster care at filing	0.24	0.27	0.25	0.26	0.04	0.01	1.09	1.04
[15] Sum of female children	0.99	0.95	0.95	0.97	-0.04	0.02	0.96	1.00
[16] Number of children in family	1.92	1.90	1.90	1.92	-0.02	0.02	0.93	0.98
[17] Age at filing (sum of children in each age group)								
<i>Age 0*</i>	0.24	0.22	0.22	0.23	-0.06	0.02	0.93	1.07
<i>Age 1 to 4*</i>	0.47	0.44	0.45	0.45	-0.05	0.01	0.96	1.00
<i>Age 5 to 8</i>	0.42	0.44	0.43	0.44	0.03	0.01	1.04	1.02
<i>Age 9 to 12</i>	0.37	0.36	0.36	0.37	-0.01	0.01	0.98	1.04
<i>Age 13 to 15</i>	0.29	0.29	0.28	0.28	0.02	-0.01	1.00	0.99
<i>Age 16 and over</i>	0.14	0.14	0.14	0.14	0.02	-0.01	0.97	0.84
[18] Race (sum of children in each race group)**								
<i>African-American</i>	1.17	1.14	1.16	1.18	-0.03	0.02	0.97	1.03
<i>Native-American</i>	0.00	0.00	0.00	0.00	-0.01	0.01	0.60	1.22
<i>Asian</i>	0.03	0.05	0.04	0.05	0.05	0.02	1.34	1.28
<i>Multiracial</i>	0.04	0.04	0.04	0.04	-0.01	0.02	0.97	1.30
<i>White</i>	0.34	0.34	0.34	0.32	0.00	-0.03	1.03	0.90
<i>Unknown</i>	0.33	0.32	0.31	0.33	-0.01	0.03	0.93	1.02
[19] Ethnicity (sum of children in group)***								
<i>Hispanic/Latino</i>	0.80	0.76	0.77	0.76	-0.04	-0.01	0.96	1.00
N	3157	3795	6952	6952				

Asterisks indicate significant differences between ILO and Panel based on a chi-square test (binary) or independent samples *t*-test (continuous) before matching.

- \* *p* < .05.
- \*\* *p* < .01.
- \*\*\* *p* < .001.

**Table 5**  
Average treatment effect (ATE) results from PSM analyses estimating treatment effects of ILO.

Outcomes	ATE	Abadie-Imbens Robust SE	z	p	95% Confidence interval	
Analysis 1. Foster care entry through 24 months (N = 8452)	−0.007	0.01	−0.51	0.608	−0.032	0.019
Analysis 2. Days spent in foster care through 48 months of filing (N = 6952) ***	−47.161	14.05	−3.36	0.000	−74.692	−19.630
Analysis 3. Subsequent substantiated report of child maltreatment through 24 months of filing (N = 9539)	−0.001	0.01	−0.1	0.922	−0.022	0.020

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$ .

**Table 6**  
Average treatment effect (ATE) results from PSM Analysis 2.

Predicted outcomes	Mean (days)		Difference
	ILO	Panel	
Average per child in the family	339.20	386.36	−47.16
Per child	307.12	362.21	−55.09
Per child who entered foster care	658.62	776.76	−118.14

reasonably attribute any difference in days spent in foster care to only those children who entered foster care. For children who entered out-of-home care, the data show a difference of 118 days, or nearly 4 fewer months in out-of-home care. On average, a child who enters out-of-home care will spend 658 days in foster care through 48 months of petition filing if an ILO attorney represents their parent, compared to 776 days if a panel attorney represents their parent—118 fewer days with ILO representation. In the exploratory analysis section, we conducted additional competing risk models to understand why children represented by ILO attorneys spent fewer days in foster care.

Because we found a statistically significant effect in Analysis 2, we conducted a sensitivity analysis to scrutinize the validity of the finding. In doing so, we intended to test how susceptible the model's findings may be to bias from unmeasured characteristics of families, and to validate our results on alternative model specifications. Full sensitivity analysis tables are available upon request. *First*, in order to test the potential impact of an unobserved characteristic on our findings, we conducted a Rosenbaum bounds analysis (Rosenbaum, 2002). Because the Rosenbaum bounds analysis only works for one-to-one matching without replacement, we re-ran Analysis 2 with these specifications and performed the Rosenbaum Bounds sensitivity analysis (Gangl, 2004; Leuven & Sianesi, 2003). When gamma is greater than 1.1, the ATE of ILO representation and children's days spent in foster care through 48 months of filing would no longer be significant (with a  $p$ -value of 0.110). These results suggest that the findings from Analysis 2 are sensitive to an unobserved confounder which would only need to minimally impact attorney assignment to nullify the findings. *Second*, since the main challenge to the CI assumption is that the attorney assignment process in later years of the program introduced unmeasured

**Table 7**  
Results from competing risk models estimating effects of ILO.

Outcomes	Variable	Subhazard ratio (SHR)	Cluster robust SE	z	p
Time in days to foster care entry (N = 16,527)	ILO	0.94	0.04	−1.76	0.078
	ILO (t = 0)	1.34	0.07	5.73	0.000***
Time in days to permanency (N = 8163)	ILO X Time	0.9998	0.00	−3.93	0.000***
	ILO (t = 0)	1.43	0.08	6.44	0.000***
Time in days to reunification (N = 8163)	ILO X Time	0.9996	0.00	−5.15	0.000***
	ILO (t = 0)	2.06	0.74	2.01	0.045*
Time in days to guardianship (N = 8163)	ILO X Time	0.9994	0.00	−2.18	0.029*
	ILO (t = 0)	1.49	0.37	1.58	0.113
Time in years to adoption (N = 8163)	ILO X Time	0.8931	0.05	−2.24	0.025*
	ILO (t = 0)	1.43	0.32	1.59	0.112
Time in days to age out (N = 8163)	ILO X Time	0.9997	0.00	−2.58	0.010*

\* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$ .

bias, we addressed this issue by re-running Analysis 2 isolating only the early years of implementation. To do so, we ran a propensity score match analysis identical to Analysis 2, except only including petitions filed from 2007 to 2009. This analysis detected a similar, statistically significant effect ( $ATE = -41.109$ ;  $p = .036$ ) of  $-41$  days. Given that the results remained similar in this analysis, we conclude that the changes in assignment process are unlikely to have impacted the study's findings. Therefore, while the Rosenbaum Bounds analysis indicates high levels of sensitivity, we have addressed the one known unmeasured confounder.

### 5.3. Analysis 3: Repeat maltreatment

Analysis 3 shows a miniscule, non-significant effect ( $ATE = -0.001$ ;  $p = .922$ ), meaning the data did not detect any difference in safety outcomes when families received ILO representation as compared to panel representation (see Table 5). We did not conduct a sensitivity analysis on Analysis 3, since the model showed no statistically significant effect.

### 5.4. Exploratory analysis

We conducted additional exploratory analysis to understand why children whose parents are represented by ILO attorneys spend fewer days in foster care, as shown in Analysis 2. Table 7 presents the key results from these models.

*First*, we sought to understand whether ILO and panel representation differed in the time to entering foster care for children not in care at the time of filing; if children whose parents were represented by ILOs entered care longer after filing, that might partially explain why those children spent fewer days in foster care through 48 months. Results show that ILO representation did not have a statistically significant effect ( $SHR = 0.94$ ;  $p = .078$ ) on the time to a child entering foster care. This result is consistent with findings from Analysis 1 that representation type does not impact foster care entry. Furthermore, the output from Analysis 2 shows that ILO representation causes children to spend fewer days in foster care; since the results here demonstrate that ILO representation does not cause children to enter care later, children exiting care sooner must account for the difference in days spent in foster

care from Analysis 2.

Second, we sought to account for the difference shown in Analysis 2, by explaining which exits from foster care children whose parents were represented by ILOs experienced more quickly. Note that the effect sizes reported with these models include the effect size at  $t = 0$  (time equals zero, or the first day in foster care for the child) and a coefficient describing how that effect changes over time. These models indicate that children achieved permanency more quickly when their parents received interdisciplinary representation, most especially reunification early in the case. Results from the models show that, controlling for other factors, children represented by ILO attorneys experienced reunification 43% faster ( $SHR = 1.43$ ;  $p < .001$ ) and achieved guardianship more than twice as fast ( $SHR = 2.06$ ;  $p < .05$ ). However, each of these effects apply at  $t = 0$  but diminish each day of the case (*reunification*  $tvc = 0.9996$ ,  $p < .001$ ; *guardianship*  $tvc = 0.9994$ ,  $p < .05$ ), meaning that the impact of the intervention on these outcomes occurs earlier in the case and eventually fades. Using the results above, children achieved reunification approximately 43% more often in the first year; 25% more often in the second year; and, 8% more often in the third year. With respect to guardianship, children achieved guardianship approximately 106% more often in the first year; 67% more often in the second year; 36% more often in the third year; and 10% more often in the fourth year. We found no statistically significant impact on a child's time to aging out of foster care nor being adopted from foster care. Regarding overall permanency, the results in Table 7 mean that children achieved permanency approximately 34% more often in the first year; 25% more often in the second year; 17% more often in the third year; and 9% more often in the fourth year.

We further plotted out the cumulative incidence function for each of the permanency exit types through 48 months from foster care entry, to illustrate the results. Of children whose parents received ILO representation, cumulative incidence functions show the following after 48 months: 65% reunified, 4% guardianship, 7% adopted, 3% aged out, 21% in care. Whereas, of children whose parents received panel representation, cumulative incidence functions show the following after 48 months: 60% reunified, 3% guardianship, 7% adopted, 4% aged out, 26% in care.

## 6. Discussion

This study utilizes a “quasi-experimental” design to assess the causal impact of interdisciplinary parental representation on child welfare outcomes. We intended to answer whether children—whose parents are respondents in child abuse or neglect petitions filed in the New York City Family Court and are eligible for court-assigned counsel—are more likely to be quickly, safely, and permanently kept together with their families if their parents are represented by ILO attorneys compared to children of similar families whose parents are represented by solo practitioner attorneys. The key findings are that [1] when children do enter foster care, ILO representation decreases their stays in foster care by nearly four months (118 days) on average through faster early reunification and guardianship when compared to a solo practitioner attorney, [2] that ILO representation did not impact child safety—defined as the likelihood of a subsequent substantiated report of child maltreatment—when compared to solo attorney representation, and [3] that ILO representation did not impact the prevalence of foster care entry, as compared to solo attorney representation. Our findings with respect to time spent in foster care and permanency outcomes comport with the findings in Courtney and Hook (2012), except we found no effect on the time to adoption. Contrary to our hypothesis, we did not find an impact on foster care entry. One unique aspect of New York City is that many children who enter foster care do so on an “emergency removal” provision which gives child protective workers broad leeway to remove children from their homes prior to court action; as these children may be recorded as entering foster care in the administrative data, parental attorneys may not be fully able to impact

foster care entry as this study has defined it.

The current study presents the most comprehensive assessment of parental representation to date, adding significant depth to the literature on this topic. However, the key limitation to our propensity score approach is the possibility that unobserved confounders impact our findings and—if measured—would nullify our results. The Rosenbaum Bounds analysis suggests that our findings in Analysis 2 are vulnerable to such an unmeasured confounder. While we still believe this study contains the most comprehensive assessment of interdisciplinary parental representation to date, a future natural experiment—or possibly a randomized-controlled trial—would further develop the field's knowledge around the impact of parental representation (see, e.g., Orlebeke, Zhou, Skyles, & Zinn, 2016 for a discussion of challenges in completing such research). We particularly encourage further research to assess the impact of parental representation programs that work with parents prior to court petition filing, often known as “pre-filing” work.

The findings bring strong empirical evidence to policymakers asking, *what kind of parental representation should child welfare systems provide to promote child safety and timely permanency?* An interdisciplinary law office approach to parental representation furthers the shared goal of timely permanency, and thus benefits children, parents, and families. Laws, research, and stakeholders agree that foster care should be a temporary stop on the path to a safe and loving family, returning children home when possible. While there are vigorous discussions concerning the circumstances in which children should be reunified, adopted, or placed in guardianship, it is universally held that foster care stays should be as short as possible while ensuring safety (see, for example, Guggenheim, 2007). To children, parents, and families, four fewer months in foster care can mean the difference between spending a birthday or a Thanksgiving together, celebrating a graduation, or simply 118 fewer days of missing each other. That ILO representation decreases children's length of time spent in foster care is precious to children and parents. In addition to promoting timely permanency, we find no evidence that interdisciplinary parental representation impacts the likelihood of children experiencing a subsequent substantiated report of child maltreatment.

Altogether, the findings that interdisciplinary parental representation promotes timely permanency for children and upholds children's safety bolster a new narrative around parental representation. Our study's findings suggest that interdisciplinary parental representation is an effective intervention that child welfare agencies and court systems may implement to further their goals. Some stakeholders have expressed concerns that—in an adversarial court system which pits parents against the child welfare agency, strong advocacy on behalf of parents may put children at risk. However, this study finds that high-quality interdisciplinary parental representation benefits child welfare professionals by aiding their own objectives. When answering the question of what kind of parental representation should be provided, the study's findings demonstrate that interdisciplinary family defense reinforces public child welfare agencies' work by promoting timely permanency with no cost to child safety.

## 7. Conclusion

Our results support policymakers in the child welfare field expanding the ILO approach to parental representation to other jurisdictions. In addition to benefiting children and families, an interdisciplinary law office approach to parental representation may save millions of government dollars, though the inquiry in this paper provides only illustrations of potential gross cost savings for public child welfare agencies in foster care board payments. Nearly 4000 children enter foster care each year in New York City. Presuming our results hold for dual-respondent petitions and subsequent petitions, a savings of 118 days per child who enters foster care would mean 472,000 bed days per cohort year (4000 times 118) should all children's parents receive the ILO representation as compared to the panel representation. Using a

foster care board rate of \$83.83 for family foster care in New York City—a rate provided by the ACS—yields annual savings of almost \$40 M for a fully implemented program. These savings are conservative in that we do not include the higher rates of [1] of residential treatment or group care bed days and [2] children who qualify for special or exceptional rates due to behavioral, developmental, or medical challenges. Of course, any calculation of cost-savings would need to factor in any increased costs of providing interdisciplinary parental representation. Any calculation of cost-savings should additionally consider the generalizability of these findings. Yet, the potential impact on the size of our country's foster care system could be tremendous should the findings hold for other jurisdictions.

However, we should be cautious about generalizing the findings to other jurisdictions or populations for two reasons: [a] New York City may differ from other jurisdictions in ways that impact the program's effectiveness, and [b] we narrowed our sample to first-time single-respondent cases. The structure and operations of New York City's Family Court and child welfare system differ from other jurisdictions, particularly those outside of large metropolitan areas; these differences may limit the impact of this model if, for example, there are no service providers in a family's area to which a social worker could refer the family. New York City has longer lengths of stay in foster care, meaning the findings here may look different in other jurisdictions with shorter lengths of stay. Within New York City, we narrowed our sample to include only single respondent cases and only each family's first petition in the family court. We did so to create the clearest comparison possible, but the downside is that the findings may not apply to the groups we did not study. Policymakers seeking to generalize these findings to other jurisdictions should consider these nuances. Future research from additional programs, sample groups, and geographic areas may confirm the generalizability of these findings. Jurisdictions in California, New Mexico, Oregon, Minnesota and elsewhere have already developed or taken steps to develop interdisciplinary parental representation programs. Rigorous evaluations of these programs will help develop the field's understanding of the impact of interdisciplinary family defense.

The current policymaking context in child welfare—emphasizing prevention and decreasing the unnecessary use of foster care—provides a rare opportunity for stakeholders to re-imagine parental representation in children welfare. In late 2018, the Children's Bureau altered longstanding policy, announcing that costs for parental representation are now reimbursable at a 50% rate under the Title IV-E entitlement, lessening the burden of state and local investments. Furthermore, the Family First Prevention Services Act (FFPSA) of 2018, bipartisan legislation that reformed federal financing of child welfare, provides Title IV-E funding for prevention programs and services to support eligible children, youth, and their families. This study identifies an intervention that deserves to be in any discussion of preventing long stays in foster care: interdisciplinary parental representation. Building on prior research on parental representation in child welfare cases, we estimated the causal impact of an interdisciplinary law office approach on children's involvement in the foster care system. We find that the ILO approach significantly reduces the length of time children spend in foster care; increases rates of timely permanency, reunification, and guardianship; and does so without increasing repeat maltreatment. These results align with the stated goals not only of children, parents, and parent defenders, but of family courts, child welfare agencies, and other advocates. In a national political context suffused with a new focus on decreasing foster care stays, these findings provide compelling evidence for jurisdictions to embrace an interdisciplinary law office approach to parental representation.

### Acknowledgements

This project was supported by a generous grant from Casey Family Programs to New York University School of Law (Grant number: CFP# FY15 - 1291). We thank our Advisory Board committee for guiding our

design and data interpretation; and the New York City Administration for Children's Services and New York State Office of Children and Family Services for providing the data and supporting the project. We appreciate those organizations and individuals who partnered with us: parents whom we interviewed, Bridge Builders, the Bronx Defenders, Brooklyn Defender Services, the Center for Family Representation, the Child Welfare Organizing Project, John Courtney, the First and Second Departments of the New York State Supreme Court Appellate Division, Graham, the Legal Aid Society, New York City Administration for Children's Services Family Court Legal Services Division and Office of Advocacy, Rise Magazine, and Sue Jacobs.

### Declaration of interest

Action Research is a consultancy and was hired by the Center for Family Representation for an unrelated small project that was completed before this study began. Professor Guggenheim is a member of the board of directors of the Center for Family Representation.

### Appendix A. Missing data

To build our sample, we started with all families named in Article 10 petitions in the New York City Family Court filed from 2007 to 2014 where ILOs had contracts. There were 27,811 such families in the LTS data. From there, we first limited our sample to each family's first petition in the data, which left 22,670 families. We subsequently selected only single-respondent cases, which left 14,871 families. Of the 22,670 families, 1820 (8%) were missing the number of respondents in the data and excluded from the sample. From the 14,871, we isolated 10,362 families who were represented by either an ILO attorney or a panel attorney. Of the 14,871 families, 6184 (42%) were represented by an ILO attorney, 4178 (28%) were represented by a panel attorney, 1864 (13%) were represented by both an ILO and an panel attorney, 1732 (12%) had no attorney in the data, 679 (5%) had attorneys that we could not identify the attorney type, and 234 (2%) were represented by private attorneys. For substantive reasons described earlier, we excluded families represented by both attorney types (1864) and private attorneys (234). Due to missing data, we excluded families with no attorney in the data (1732) and an unidentified attorney (679).

From the 10,362 families who fit all the qualifications to be in the sample, we deleted 457 (4%) families with missing outcome data and 323 (3%) families with missing parent or child age or sex information. This left us with 9582 families in our sample. Though some families in the final sample contained missing parent or child race/ethnicity information, we opted not to delete those cases and instead included an unknown race category in our PSM models. Even though complete case analysis is the standard approach to PSM, we deemed that the race unknown group was too critical and large to exclude from our model, as many of the families were identified as Hispanic or Latino with unknown race. However, we subsequently re-ran Analysis 2 deleting all cases with any missing race or ethnicity information and the results were similar ( $ATE = -44.045$ ;  $p = .012$ ).

### Appendix B. Attorney assignment process

Because the validity of PSM depends on adequately capturing the attorney assignment process in the PSM model, we describe the attorney assignment process here. We observed the case assignment process in the New York City Family Court in the Bronx, Brooklyn, Manhattan, and Queens for a total of 22 h in October 2016. In addition to observing and taking notes in the courtroom, we discussed the assignment process with attorneys, court clerks, judges, and other court personnel. Prior to conducting court observation, we designed a set of guiding questions based on the core question, *how does respondent (parent) attorney assignment work?*

Each courthouse is divided up into parts, or courtrooms, and each

judge has their own part. An “intake” is an Article 10 petition filed that day, and in each courthouse, one part is assigned daily to hear all intakes that day. In some boroughs, the intake part rotates between judges, and in others, one judge always does intake. The judge will assign the parent an attorney at the intake hearing—or the parent’s first appearance in court—often the same day or within a few days of when the petition is filed. While legally a parent must be indigent to be eligible to receive a court-appointed attorney, in practice any parent in New York City who appears without representation will be assigned a court-appointed attorney. Many judges do not ask parents about their income or employment status before appointing an attorney. In our fieldwork, no parent was ever denied a court-appointed attorney, and in our data, almost no parents retained private counsel (2%).

When ILO contracts were first awarded, panel and ILO attorneys alternated cases either by day of the week or case by case, depending on the borough. The ILO contracts capped the total number of cases each provider could accept in a given year. Relatively low contract caps meant that ILOs reached their contracted limits quickly and subsequent cases were assigned to panel attorneys. In the early years of the program, cases were assigned to ILO or panel without any systematic difference between families that would affect outcomes. Individual panel attorneys were selected by rotation, and each ILO would select the individual ILO attorneys working on new cases on a given day.

Over several years, however, the assignment process shifted as the number of cases contracted to ILOs increased. Currently, cases are presumptively assigned to ILOs unless there is a conflict, in which case a panel attorney represents the client. Additionally, there are two uncommon reasons a panel attorney would represent a client: if a panel attorney has previously represented the client, the same attorney may be assigned for continuity, based on judge discretion (this would not apply to cases in our sample which are all first-time petitions); or if the ILO has reached their caseload cap, any new cases will be assigned to panel attorneys. A conflict means that the provider represents or previously represented the parent or another person in such a way that the interests of one case could compromise the other. For example, if a provider represents the mother in a neglect or abuse petition, that provider cannot also represent the father, because the interests of one client could potentially be at odds with the interests of the other. The assignment process varies slightly by court borough, but the ILO conducts a “conflict check” on each new family, and, if no conflict arises, the parent is assigned an ILO attorney, otherwise the parent is assigned a panel attorney by rotation. A “conflict check” usually includes asking the parent a few questions and running any names listed in the Article 10 petition through the provider’s case management system to see whether the provider represents or had represented anyone in the case. The timing of shifts in assignment processes varied by borough and sometimes by the individual judge. While we were unable to gather the exact dates of the changes, we understand from stakeholders that this newer attorney assignment process did not begin in any borough until 2010 at the earliest.

The newer assignment process presents challenges to the CI assumption for PSM by suggesting that parents were assigned ILO or panel attorney based on characteristics that we cannot directly observe or include in the PSM model. To address this issue, we conducted a sensitivity analysis where we ran a PSM analysis using only cases from the early years of program implementation where conflict cases were rare. We describe these results in the Analysis 2 section.

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## **Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families**

by Jillian Cohen and Michele Cortese

This article introduces a promising approach to child dependency cases in which a child is placed in foster care. “Cornerstone Advocacy” supports family reunification, when possible, by devoting intensive advocacy during the first 60 days of a case in the following four areas:

- **visiting** arrangements for children and their parents that are as frequent and long as possible, and most closely mimic family life;
- **placement** arrangements that support a child’s connection to family and the people and institutions that the child was connected to before placement in foster care;
- **services** that address a parent and child’s strengths and needs;
- **conferences** and meetings that occur out of court and provide opportunities for parents and older youth to meaningfully participate in their case planning.

Whether you represent parents or children, your legal training likely encouraged you to develop excellent investigatory and litigation skills. However, in practice you are likely to devote those skills to the trial, discovery, and motion practice.

You may not think about the longer-term permanency prospects for the family until after a trial is complete. Arguably though, the most significant and central question in most dependency cases is not whether or not a parent committed “neglect” but whether and when a child can return home safely. Cornerstone Advocacy attempts to answer this question and bring advocacy skills to bear as soon as possible in every case—because it can take months to reach a trial on the merits and, in most cases, parents want their children home and children wish to return home.<sup>1</sup>

### **About Cornerstone Advocacy**

Early, consistent focus on each of the four Cornerstones yields better results for families. Since 2004, the Center for Family Representation (CFR) has brought this approach to more than 600 families in its representation of parents and has achieved reunification at a rate that far outpaces city and state averages—more than 55% of CFR’s clients’ children are not in foster care, and those that are have significantly reduced lengths of stay and far fewer return placements.<sup>2</sup>

**Benefits:** Cornerstone Advocacy does not replace preparing for trial, but if used with equal intensity, it has the following advantages:

- maintains a child’s significant attachments to parents and family that can reduce the emotional stress for a child in foster care and increases the likelihood that a parent will stay engaged in planning;
- speeds reunification and avoids protracted foster care stays;
- ensures services are tailored to the problem that led to placement, hopefully achieving stability that avoids future child protective involvement;

- makes it easier for practitioners to make accurate, informed decisions about the ultimate permanency question in the case, *whether a family can reunify safely*.

When you meaningfully pursue the Cornerstones, it is easier to be confident that a goal change to a permanency option other than reunification is appropriate, instead of the result of poor agency casework, delayed and missed opportunities for family connection and healing, overburdened professionals, or inadequate assessments about a family's potential.

**Why 60 Days?** CFR chose the 60-day mark for several reasons:

- The National Council of Juvenile and Family Court Judges chose the 60<sup>th</sup> day as a best practices benchmark for the trial phase of a dependency case to be complete.
- Parents, children, service providers, and other family supports often have an intense sense of urgency about supporting the children and family when the case begins—information is easier to obtain, people are optimistic and hopeful, and neither parents nor children have had the chance to become frustrated and/or resigned to a court or child welfare process that feels slow, formulaic, and without meaning.
- The direction the case takes early on often predicts where the case will go in the long run. So, preserving family connections, maximizing parent engagement, and assuring the right service plan helps direct the case toward reunification early, before the law and a child's new attachments make reunification more difficult to choose and achieve.<sup>3</sup>

Yet, while Cornerstone Advocacy should begin on day one, it can and should continue throughout the case, regardless of when a trial date is set.

### **Incorporating Cornerstone Advocacy**

Like most child welfare practitioners, you likely carry a large caseload. You may also lack regular support from social workers or paraprofessionals. The discussions below attempt to share an easily adaptable framework in which to think about Cornerstone Advocacy strategies. They identify “small adjustments” you can make, even in a busy practice, to incorporate Cornerstone Advocacy into your practice so your clients benefit. Each Cornerstone is described, followed by specific advocacy strategies and timeframes for pursuing them in your advocacy routines.

**Visiting:** Clinical research reveals three things:

- Meaningful and frequent visiting is the single best predictor of safe and lasting reunification.<sup>4</sup>
- Supporting a child's attachment to his or her parents through visits helps ease the anxiety and confusion that often surrounds foster care because when children can see their parents often and in circumstances that make them comfortable, they can talk with the people they most need to about what has happened-- their parents. Children also hear from their parents what will and could happen and are assured that they will see parents and siblings frequently.
- Agency offices, where most visits between parents and their children take place, are some of the worst places to assess family attachments and family functioning.<sup>5</sup>

Visiting is at the heart of parent engagement. If parents are given the chance to still perform the parenting role, it enables them to continue the relationship with their children and inspires them to keep working on getting them home. Quality visiting can help children preserve cherished rituals, share stories from school and social life, and continue to seek advice and encouragement from their parents, all of which helps them cope with foster care and eventually make a smoother transition home.<sup>6</sup>

Many state laws only require that children see their parents for one hour every two weeks, or at best, with no visits missed, 26 hours a year, little more than a day.<sup>7</sup> The challenge for practitioners is to advocate for more frequent visits with as little supervision as necessary. When possible, visits should occur outside the agency and include activities that mimic family life. Imagine the difference between sitting across a table with few toys or food in a cramped, hot office (with a worker sitting taking notes nearby) and going with a parent school shopping, or to the park or YMCA.

### **Small Adjustments and Key Timeframes**

#### *First court appearance:*

- Raise visiting—ask that visits take place at least once a week for two hours, more often if possible. Most of the time, supervised visits are an agency's and a court's default. If visits will start with supervision, insure that they are as frequent and lengthy as possible.
- If visits will be supervised, ask that the child welfare agency state the reasons for supervision on the record.
- If your client has identified a possible visit host, ask that the agency explore that person.<sup>8</sup>
- If a case will not go to trial for several weeks or months and no other preliminary proceeding is scheduled, ask the court to place the case on the calendar for a status report on visiting. Include the results of any exploration of a visit host and where and how visits will take place.

#### *Week one:*

- When first meeting your (parent or child) client, ask about activities and events that might be a focus for visiting, such as school meetings, shopping trips, movies, and birthdays. Even young children can describe things they did with parents in the past that they enjoyed and may have ideas about places where visits could take place outside of the agency.
- Ask parents and older children about relatives or other people (neighbors, close friends, guidance counselors, pastors) who could host some visits outside the agency; be sure to provide the information to the foster care agency.

#### *Within first four weeks:*

- Assess how visits are going, particularly whether a parent and child are getting appropriate support before, during, and after a visit. This may mean a phone call to a caseworker, a foster parent, or your client.
- If the case is on for a status report and you represent a child, ask for the child to be produced so you can discuss visits.
- Always ask whether the foster parent is willing to host some or most visits.

*After eight weeks, and every court appearance thereafter:*

- If visits are supervised, ask whether supervision continues to be necessary.
- If visits are held at the agency, ask whether visits can move outside the agency.
- Assess the timing and frequency of visits. If necessary, ask whether they can become longer or more frequent.
- Create a tickler system in your calendar to determine if visiting plans are progressing at least every two-three months.

*If resources permit:*

- Have a social worker, social work intern, or other staff person observe a visit if you learn of problems. Assessing a child's reaction to visits is complicated. "Negative" reactions, such as acting out or anxiety, may mean that either a parent or child needs more support before, during, or after a visit. Be careful about assuming a child's "negative" reaction to a visit means the visiting should be restricted. Sometimes it indicates exactly the opposite and visiting needs to be expanded or visiting conditions improved. Older children can often tell you what they wish could change. Sometimes, with younger, preschool-aged children, "negative" reactions, such as tantrums and bedwetting can decrease with an increase in visits—because they often need more frequent contact with an adult to maintain the secure attachment that permits them to make smooth transitions back and forth between a foster caretaker and a parent.<sup>9</sup>

*Generally:*

- Remember that emotional endings to visits (parents or children crying) are often difficult for professionals to tolerate or observe, but may signal a "good" visit and a very "normal" reaction for a family having to separate once again.
- Get short orders that address transportation, what happens when a visit is missed through no fault of the parent, arrangements for special visits (e.g., holidays), and criteria for phone or e-mail contact. Explore your state's regulations regarding visiting and visiting supports.<sup>10</sup>
- Explore resources in the community for visits to take place (*this is a great intern project*). Good places for visits are libraries, parks, community centers, museums, street fairs and carnivals, zoos, sport facilities, and shopping malls and hair salons for older children.

**Placement:** Children and families experience multiple disruptions when children enter foster care. Finding a placement that appropriately supports a child's connection to family promotes reunification. Foster parents who are willing to host visits in their home, facilitate phone contact, and otherwise support a parent and child's relationship play a critical role in maintaining family ties that inspire parents to stay engaged in services.

Helping a family stay connected also permits parents to stay involved in the child's life in appropriate ways. Additionally, a placement that helps children stay connected to teachers, friends, and other community supports like therapists or physicians eases the transition to foster care and conversely, the transition back home. Ensuring continuity of services also means fewer adjustments following reunification.

### **Small Adjustments and Key Timeframes**

*First court appearance:*

- Always ask whether a child can remain in his or her daycare, school, or afterschool program. If not yet explored, ask the agency to do so and report back to the parties.

*First court appearance/first interview:*

- Ask the agency caseworker, and parents and older youth, about relatives and anyone with a prior significant connection to a child. Godparents, neighbors, and babysitters may be willing to provide temporary care.
- If the case will not be back in court for a long time, ask the court to put the case on the calendar for a status report within *two weeks*.
- If representing a parent, ask at the first interview about services that the parent would like to continue. Ask the agency's caseworker the same questions to determine if any are problematic.

*Within first two weeks:*

- Reach out to any placement resources that seem promising. Try to secure their appearance for the status report if the agency is not moving quickly to investigate the resource (sometimes a judge will issue an order to expedite an investigation if given the opportunity to see the person in the courtroom).
- Ask your client or service providers to identify any logistic (e.g., transportation, scheduling) or financial (e.g., the parent has lost Medicaid) barriers to a family continuing in previous services, so that if alternative plans need to be made, they can be made quickly.

*Within first six weeks:*

- Ask the foster parent about her ideas for supporting the relationship between the parent and child -- you may be surprised. Ask about exchanging phone numbers and photos, and going on outings. As we would with our own children, expect that the adults involved can work together with proper support. If a foster mother does not have to drive to an agency, she might be very happy to have visits in her home or nearby.
- Kinship foster parents often can provide more consistent support for children and parents. If a parent is objecting to kin, find out why and ask questions about additional resources.

*Generally:*

- Explore state regulations governing placement decisions. They often provide that non-kin resources with a prior relationship to the child can be explored as foster parents as quickly as relatives.<sup>11</sup>
- Explore state regulations and/or local policy memos on whether and in what circumstances an agency or board of education will provide transportation to allow a child to stay in his school.
- If special education services are disrupted, take steps to insure that special education records are provided to a new school placement.

**Services:** Too often, agencies choose from a formulaic menu of services in making referrals for parents and children.<sup>12</sup> Often, foster care workers refer families to services that are close by or familiar. This results in service referrals that may not reflect a family's strengths (only their

needs), may be ill-suited to a parent or child, or may create unnecessary demands on a parent who must attend programs, court appearances, and visits. Poor or inappropriate services lose legitimacy for parents and can cause them to disengage or “fail to comply.”

Frontloading services may feel burdensome to child welfare staff. The time investment in the first months –family conferencing, multiple referrals, and initial obstacles –is not in vain. Families receiving stable yet flexible and creative services in the areas of mental health, substance abuse, domestic violence prevention, anger control, and parenting education will likely be allowed more time with their children and move faster towards reunification.<sup>13</sup>

### **Small Adjustments and Key Timeframes**

#### *First court appearance/within first week:*

- Ask questions about a parent’s strengths and what services would build on them. Does the parent have a job, an extended family, a prior good history with another provider? Make sure the case planner is aware of a parent’s prior connection to services and a family’s other commitments, such as a job, so any demands of a new service plan do not interfere.
- If representing a parent or older youth, ask about the experience with services and whether they are continuing. Does your client trust the service provider? Should the service provider remain involved?
- Have HIPPA and other general confidentiality releases with you in court and ask your client to sign these so that you can speak with providers throughout the case. Explain to your client why it is important that you speak with providers frequently to troubleshoot issues that may arise and assure that information is integrated into the court process.
- Determine which service goals will take a long time to achieve. If a parent needs help obtaining suitable housing, there is no time like the first time you meet that parent to start the lengthy process of applying for subsidies or supportive housing programs. Insight-oriented psychotherapy geared towards helping parents reflect on their role in the abuse or neglect is not a quick fix. An appropriate referral on day one or day 35 is much more practical than one year into the case.

#### *Within two weeks:*

- If there was no service plan discussed at the initial court appearances, contact the worker (or your client) about the service plan.
- Ask the agency (through a caseworker or counsel) why certain services are necessary.
  - If parenting is recommended, what kind?
  - Are culturally competent services available?
  - Are services geared to the right developmental stage of the parent’s child(ren)?
  - Can services be consolidated? (e.g., Does a parent need anger management classes and individual counseling or can counseling address both?)
  - How far and how often are children and parents being asked to travel and at what times?
  - Does the parent need assistance that might not be obvious from the allegations? (e.g., in a substance abuse case, assisting a mother with housing, Medicaid, or educational

advocacy for her child may reduce family stress and make it easier for her to focus on treatment.)

*After four weeks:*

- If your client (parent or child) is still not in needed services, find out why.
- If additional court orders are necessary relating to funding, transportation, etc., pursue those.
- Take steps to ensure parents and youth are, where willing, engaged in services within six weeks of the case beginning. Delay in services usually stalls other important aspects of the case, especially progress around visiting.

*Generally:*

- Ask the court to direct that you be provided any documents relating to services (most states have regulations that require documentation at the 30 and 90 day mark). Often documents related to service plans reveal when services are poorly developed, a lack of clarity about which provider is responsible for what, or missing pieces in the service plan.<sup>14</sup> Reviewing the documents will help you avoid time wasted because aspects of the plan are unrealistic, have not anticipated payment issues, or are less than ideal for a parent or child (e.g., a family therapy appointment is far from the foster home or a parent is referred to services where no one speaks her language).
- Ask the court to permit the parent to participate regularly in a child's services, such as Early Intervention services, education or health appointments. A parent will need to be involved once the child is home, so start the lessons now.
- Continue to ask parents and older youth if services are appropriate. When service providers are positive about clients' progress, ask them to provide that information to the court.
- Request court orders for referrals to be accomplished by a certain date, or ask for status reports or short adjournments for the agency to report on its efforts and the parents' progress with services. These actions remind everyone of the sense of urgency that a family has about its own goals and can speed progress in a case.
- Learn what your state regulations say about how services and assistance should be provided and in what timeframes.<sup>15</sup>
- Understand the role of the attorney in the actual case planning meeting.

**Conferences:** You can capitalize on a national trend that is becoming a child welfare norm: family-centered child welfare practice. Many states are adopting models where child welfare-involved families participate directly in safety and service planning.<sup>16</sup> These meetings usually occur anywhere from a few days to 30 days after a child is removed and are sometimes referred to as family team decision-making conferences or child safety conferences. These conferences allow your clients – parents and children – to sit alongside child welfare workers, investigators, social workers, other service providers, and extended family to help make important decisions about their lives, such as:

- Will the family remain together?
- Will a family member become a foster parent?
- How often will the parent and child visit each week?

- Is the family ready for unsupervised visits?

Much decision making occurs outside court. Often, the traditional “social work/child welfare” sphere, where concrete planning takes place, and the “legal” sphere, where legally binding decisions about a family are made, do not connect. Sometimes an attorney has inadequate or inaccurate information when a case is in court, or a court appearance is the first time an attorney hears from a client that child welfare decisions made weeks before at an agency meeting are problematic. Interdisciplinary legal representation (when attorneys and social workers work together on the legal case) for parents and children is one solution to this historical disconnect. However, an attorney does not need a social worker on staff to help bring these two worlds together.

### **Small Adjustments and Key Timeframes**

#### *Day one/within first week:*

- Find out if your jurisdiction holds family or team decision-making conferences.
- Ask about the agencies’ protocols for out-of-court conferences and what kinds of documents are generated at those conferences.
- Ask the agency caseworker if certain conferences are routine in every case. If so, ask the court to direct that you be notified before those conferences so you can either arrange to attend, have someone attend, or prepare your client to attend.
- Discuss with your client what will happen in between court appearances and make sure the client knows who can accompany them to conferences, what documents are important to bring, and to notify you ahead of time so you can counsel them just before the conference if needed.
- When representing an older youth, ask if your client would like to attend the meeting.
- Ask parent and child clients if there is someone who can accompany them to initial meetings to help make their voice heard and to challenge inappropriate service decisions.
- Make sure prior service providers are notified of meetings. If necessary, ask the court to direct that they be included. Families may distrust their child welfare workers, especially following the removal of children. Inviting families, service providers, and advocates to the decision-making table early in the case helps address those concerns.

#### *Within two weeks:*

- Help your client prepare for the first formal conference (or casework meeting).
- Use checklists to help a client remember what to raise at the conference.
- If you can, be available in person or by phone during the meeting. If you cannot be available either in person or by phone, help your client practice how to ask to step out of the meeting to contact you.
- Explain the Adoption and Safe Families Act (ASFA) to your client. A parent or older youth may hear about ASFA at a conference and may find it stressful to hear the word “adoption” so early in the child welfare process.

#### *Within four weeks:*

- Find out about your client’s experience at any agency conferences if you or someone else could not go along.

- Follow up with the agency or service providers if your client feels inappropriate services have been required.
- If necessary, ask the court to recalendar the case to ensure more appropriate referrals are made.

*Generally:*

- Give copies of any court orders, particularly those around visits or exploring placement options to your client—having copies of orders can help a client be a better advocate for herself at an agency conference.
- Ask a parent or older youth to contact you after a conference if there is a problem.
- Research state regulations and administrative memos issued by your social services district to find out if you, as an attorney, can attend a conference, or at the very least if a parent can bring a support person. Attorneys are sometimes viewed as unwelcome (because agency staff presumes, sometimes fairly, that an attorney will bring an adversarial tone to a conference); nonetheless, if your client needs help advocating for his views at a conference, know which meetings you can attend.
- If necessary, send your client a letter referencing that regulation or administrative directive when the client attends the conference and brings a support person.

### **The Legal Basis for Cornerstone Advocacy**

Meaningful visits, well-matched services, supportive placements, and collaborative conferencing can be promoted at every opportunity—in and outside the courtroom. Whether you are raising one of these issues on the phone, in a meeting, in court, or in motion papers, understanding the legal underpinnings of Cornerstone Advocacy helps. This is true for legal and social work staff.

Fair or not, many agency workers and agency attorneys will work hard for a family in these four areas if they believe the law compels them to. Judges are more likely to be persuaded by arguments that are bolstered by law. A legal argument can be made to address nearly every situation that arises in Cornerstone Advocacy by combining the sources of law and authority below:<sup>17</sup>

- “Reasonable efforts” language exists in most dependency statutes, in many cases since the early 1980s. The passage of ASFA prompted a renewed focus on the child welfare agency’s duty to make reasonable efforts to safely reunify families. Think about how visiting, conferencing, services, or placement options you are pushing can fairly be deemed a ‘reasonable effort’ in support of reunification.
- State dependency statutes address services and assistance.<sup>18</sup> Also look to any issue-specific sections of your state statute (i.e. the portion that deals with services, visits, or placement). Argue that your advocacy fulfills the spirit if not the letter of that section.<sup>19</sup>
- State regulations detail the obligations that agencies owe parents and children. For example, most states have regulations governing visits (including specific agency obligations around transportation, missed visits, long distance phone calls), conferences and services (including an agency’s obligation to invite supports for the family, even attorneys), and placement (including helping youth stay connected to important institutions, like schools).<sup>20</sup>

- Administrative directives, memos, and guidelines published by state or county agencies may address visiting, placement, services, or conferences. Find these on state and county Web sites. While administrative directives and memos are not law *per se*, they typically represent social service providers' interpretation of best practices and legal obligations and thus can be persuasive in convincing an agency or a judge to move on a Cornerstone issue.

## **Conclusion**

Regardless of staffing resources, Cornerstone Advocacy provides a paradigm for your advocacy strategy and enables you to focus on those issues which have the greatest impact on a family's chances for safe and successful reunification. The small adjustments you make to integrate Cornerstone Advocacy in turn help all professionals working with a parent or children maintain a sense of urgency about each family's circumstances and the importance of minimizing the time children spend in foster care.

Beyond this, Cornerstone Advocacy also helps to more accurately identify those cases where a parent will need a much longer-term service plan to address her needs or where a permanency plan other than return home is appropriate. Doing a good job on the trial on the merits is critical of course, but Cornerstone Advocacy also enables you, from day one, to help your clients achieve the goal that often means the most to them—the chance to have their families whole and healthy.

*Jillian Cohen*, LMSW, is a social work supervisor at the Center for Family Representation (CFR) and *Michele Cortese*, JD, is CFR's deputy director. CFR also expresses its appreciation to Emily Wall, Randi O'Donnell, and Polina Mzhen, law interns who assisted in researching laws and regulations in other states for this article.

Sidebar:

## **RESOURCES**

Center for Family Representation, Inc. (CFR)

Information on Cornerstone Advocacy and training and technical assistance.

212/691-0950

[www.cfrny.org](http://www.cfrny.org)

[info@cfrny.org](mailto:info@cfrny.org).

Annie E. Casey Foundation

Information and technical assistance on family team decision-making conferences.

[www.aecf.org](http://www.aecf.org)

Center for the Study of Social Policy

Information on conferencing.

[www.cssp.org](http://www.cssp.org)

Pew Charitable Trusts

Information on parent engagement, promising service approaches, and visiting.

[www.pewtrusts.org](http://www.pewtrusts.org)

New York City Administration for Children's Services (ACS) Office of Family Visiting and Parenting Education

Information on promising approaches to family visiting.

Contact Paula Fendall, director, [paula.fendall@dfa.state.ny.us](mailto:paula.fendall@dfa.state.ny.us)

Children's Bureau, Administration on Children, Youth and Families

Information on a variety of promising approaches to family reunification.

[info@childwelfare.gov](mailto:info@childwelfare.gov)

[www.childwelfare.gov](http://www.childwelfare.gov).

ABA Center on Children and the Law

National Project to Improve Representation for Parents Involved in the Child Welfare System

Information on effective parent representation in child welfare cases.

<http://www.abanet.org/child/parentrepresentation/home.html>

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<sup>1</sup> Most children who enter foster care do return home to their parents. Experience and research suggest that the longer children stay in care, the less likely they are to return home; thus, early and sustained focus on activities directed to safe reunification are critical. See, e.g., *Child Welfare Information Gateway Issue Brief: Family Reunification: What the Evidence Shows*. Washington, DC: U.S. Department of Health and Human Services, June 2006, 1, 12. Available at [www.childwelfare.gov/pubs/issue\\_briefs/family\\_reunification/family\\_reunification.pdf](http://www.childwelfare.gov/pubs/issue_briefs/family_reunification/family_reunification.pdf); *Time for Reform: Investing in Prevention: Keeping Children Safe at Home*. Philadelphia: Pew Charitable Trusts, 2007, 4-5, 14. Available at [www.kidsarewaiting.org](http://www.kidsarewaiting.org).

<sup>2</sup> CFR is a nonprofit law and policy organization in New York City that advocates for parents and children in the child welfare system. Currently, CFR's average length of stay for children in foster care is 3.25 months, compared to 11.5 months for children who enter care in New York City and 48 months for all other children in care. Our rate of foster care re-entry is less than 1% as compared to a citywide rate that averages between 10 and 12%.

<sup>3</sup> The Adoption and Safe Families Act (ASFA) requires, with certain exceptions, that any child who has been in care for 15 of the most recent 22 months should be freed for adoption. In practice, 15 months can pass very quickly, particularly in cases involving a parent who is trying to overcome substance abuse, is briefly incarcerated, or is addressing a mental health issue. Missed opportunities to help a family stay connected and keep a parent engaged in services early in the case too often leads to many months passing and children solidifying new attachments to foster families and new communities. Even when professionals acknowledge more could have been done earlier, they often feel compelled to seek a goal change to adoption if many months have passed without progress toward reunification.

<sup>4</sup> See, e.g., Leathers, Sonya J. "Parental Visiting and Family Reunification: Could Inclusive Practice Make a Difference?" *Child Welfare* 81(4), Jul-Aug 2002, 595-616; U.S. Department of Health and Human Services, June 2006, 12; Pew Charitable Trusts, 2007, 15.

<sup>5</sup> See Haight, Wendy L., Jill Doner Kagle & James E. Black. "Understanding and Supporting Parent-Child Relationships During Foster Care Visits: Attachment Theory and Research." *Social Work* 48(2), 2003; see also, Smariga, Margaret. *Visitation with Infants and Toddlers in Foster Care: What Judges and Attorneys Need to Know*. Washington, DC: ABA Center on Children and the Law & Zero to Three, July 2007. Available at [www.abanet.org/child/policy-brief2.pdf](http://www.abanet.org/child/policy-brief2.pdf)

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<sup>6</sup> See, Leathers, 2002, 598, 608-613.

<sup>7</sup> N.Y. Comp. Code R. & Regs. tit. 18, § 430.12 (minimum visiting required is once every two weeks); Cal. Welf. & Inst. Code § 362.1 and Fla. Admin. Code Ann. r. 65C-28.002 (minimum visiting required is once per month).

<sup>8</sup> A visit host is a person identified by a parent or a child who can monitor visits in lieu of a caseworker. While visit hosts are often not appropriate for initial visits, it is important to explore possible candidates early, even if they will not assist with visiting right away. A visit host can be a pastor, neighbor, extended family member, foster parent, coach, guidance counselor, etc.—someone who can be trusted to insure the child’s welfare but at the same time provide opportunities for a family to spend more time together pursuing family activities. For more information and/or to receive a copy of the New York City Administration for Children’s Services Visit Host Guidelines (developed by a task force co-chaired by CFR), contact CFR at [info@cfmy.org](mailto:info@cfmy.org).

<sup>9</sup> See Haight, Wendy et al. *Making Visits Better: The Perspectives of Parents, Foster Parents, and Child Welfare Workers*. Urbana, IL: Children and Family Research Center, School of Social Work, University of Illinois at Urbana-Champaign, July 2001, 23-25; See also Haight, Kagle, and Black, 2003, 196-202.

<sup>10</sup> See, e.g., Ala. Admin. Code r. 660-5-50-.06 (visiting should be organized around events such as shopping, picnics and recreational outings and visiting arrangements should encourage parents to engage in the parenting role through such activities as doing homework, providing meals and attending school appointments); Fla. Admin. Code Ann. r. 65 C-28.002 (visiting can occur in an institutional setting only when it is “unavoidable”).

<sup>11</sup> N.Y. Comp. Codes R. & Regs. tit. 18, §§ 443.1, 443.7 (someone with “significant connection” to child is entitled to an expedited home study, even if not kin); Cal. Welf. & Inst. Code § 362.7 (an agency should explore relatives, neighbors, clergy, and family friends); State of Florida Department of CF Operating Procedure Child and Families, No. 175-34, Family Safety and Preservation: Removal and Placement of Children, August 1, 1998, (nonrelative may be considered as a placement resource under policy guidelines of the social services department).

<sup>12</sup> U.S. Department of Health and Human Services, 2006, 4-5; Pew Charitable Trusts, 2007, 7, 15.

<sup>13</sup> Ibid.

<sup>14</sup> See, e.g. Fla. Admin. Code Ann. r. 65C-30.008(3)(a-d); N.Y. Comp. Codes R. & Regs. tit. 18, §§ 423.2, 423.4; Ill. Admin. Code tit. 89, § 302.40(c).

<sup>15</sup> E.g., Cal. Welf. & Inst. Code § 361.5(a)(3) (court orders may be needed if services need to extend beyond 12 months); Ill. Admin. Code tit. 89, § 315.250 (services may include family planning and “intensive family preservation services,” but if the agency changes the child’s permanency goal, it only needs to offer a parent visiting); Md. Code Regs. 07.01.06.02 (a-b) (specifically references “transportation to and from services”).

<sup>16</sup> Research from the U.S. Department of Health and Human Services, the Annie E. Casey Foundation, Pew Charitable Trusts, and the Center for the Study of Social Policy Web sites found the following states use some form of family or team decision-making conferences to engage parents in child welfare cases: IA, TX, KY, NH, OH, OK, OR, RI, WY, PA, MI, NC, NY, MN, and FL. See:

[www.childwelfare.gov/pubs/issue\\_briefs/family\\_reunification/family\\_reunification.pdf](http://www.childwelfare.gov/pubs/issue_briefs/family_reunification/family_reunification.pdf),

[www.aecf.org/Home/CaseyPlaces.aspx](http://www.aecf.org/Home/CaseyPlaces.aspx),

[www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Foster\\_care\\_reform/time\\_for\\_reform.pdf](http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/Foster_care_reform/time_for_reform.pdf),

[www.cssp.org/uploadFiles/Family\\_Team\\_Conferencing\\_Handbook.pdf](http://www.cssp.org/uploadFiles/Family_Team_Conferencing_Handbook.pdf).

<sup>17</sup> Whenever possible, practitioners at CFR structure legal arguments using all four of the elements mentioned. For assistance on crafting legal arguments for oral and written advocacy, contact CFR at [info@cfmy.org](mailto:info@cfmy.org).

<sup>18</sup> N.Y. Fam. Ct. Act § 255, 1015-a; Cal. Welf. & Inst. Code § 16507(a).

<sup>19</sup> See N.Y. Fam. Ct. Act §§ 1017, 1027-a (addresses placement with relatives and siblings); N.Y. Fam. Ct. Act § 1030 (addresses visiting); N.Y. Fam. Ct. Act. §§ 1055, 1089 (directs the court to integrate visiting plans into specific orders).

<sup>20</sup> See, e.g., N.Y. Comp. Code R. & Regs. tit. 18, §§ 430.12, 423.2, 423.4, 428 & 430.11; Fla. Admin. Code Ann. r. 65C-30.008(3)(a-d) and 65C-30.008 (2).



# Family Inclusion Network

## ‘Child Protection Litigation Model’ Review

### Family Inclusion Network (FIN)

### Consultation with parents – May 2024

*“Answerable and accountable to no-one...  
If you don’t hold people accountable you can’t fix the system.”*

#### Background

In early 2024, the Queensland government established the Child Protection Litigation Project to “deliver a permanent child protection litigation model”. The project’s priorities are “set out in Charter Letters to both the Minister for Child Safety and the Attorney-General”.

The project team liaised with and supported the Family Inclusion Network (FIN) to bring the voice of parents into the review. FIN has previously provided government with parents’ input about child protection litigation processes via a multi-stakeholder workshop in 2020 and the ‘Nous review’ in 2022.

#### Family Inclusion Network

Valuing children. Partnering with families. Embracing Diversity

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Family Inclusion Network facilitates opportunities for parents to be advocates for children and themselves. We resource parents and extended family members to participate and have a voice in the policies and services impacting on the lives of their children, family and community.

AN ACTIVITY OF  MICA PROJECTS

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## About the Family Inclusion Network (FIN), Southeast Queensland

The Family Inclusion Network (FIN), Southeast Queensland is a network of parents and their allies working to improve the child protection and family support system.

FIN brings together parents with lived (and living) experience with government and non-government agencies to work collaboratively on policies and issues that affect families experiencing the child protection system.

The Family Inclusion Network is an activity of Micah Projects.

## Approach

The scope of this government review emerged from the Project during April and May 2024, with FIN seeking parents' input in May 2024 through:

- Three (3) focus groups:
  - an evening zoom (14 May 2024)
  - an in-person session in Townsville (16 May 2024)
  - an in-person session in Inala (21 May 2024)
- An online survey (published on 13 May 2024), and
- Additional zooms and phone calls with individuals and/or small groups.

This paper provides a summary of findings, key themes, key challenges, and key suggestions.

FIN's paper brings forward the marginalised and shut-down voices of parents. Parents have the right to their say and to voice their opinions - and there will always be a wide range of views. As in any group, there will also be a wide range of pragmatic suggestions. FIN as an 'ally' in this work will sometimes also offer suggestions, literature, and models where these appear to meet the needs of the parents and an improved system. At other times, FIN will not hold a view but rather create a safe space for ideas to be brought forward.

## Parents who provided input

**Fifty (50) parents** provided input.

Parents were only included in this consultation if their experience of Child Safety had occurred since 2016 in order for them to be considered knowledgeable on the 'Child Protection Litigation Model'.

Regarding the request for demographics, FIN does not frequently collect personal, demographic, or diversity information about parents; partly because parents already experience an overwhelming level of surveillance and information-gathering. Also because, as highlighted by Queensland's Information Privacy Principles, specific personal information may only be asked for if it is directly related and relevant to the purpose of the work ([Information Privacy Act 2009 Qld](#)).

The **views and experiences of parents are valid regardless** of diversity tickboxes attained by the group.

Diversity targets for their own sake are not always useful. “When the social sector employs checkboxes to increase representation of the underrepresented, it ultimately misses the point of deeply understanding differences for genuine, impactful collaboration.” ([Stanford Social Innovation Review, 2019](#)).

That said, FIN of course does highly value diversity. As part of Micah Projects, FIN deeply respects and values the broad range of life experience, skill, knowledge, wisdom, culture, and potential that diversity brings to the community and to our network ([Micah Projects’ Strategic Plan 2022](#)).

This is what we know:

- 50 parents provided input
- 16 parents were from Townsville and/or Far North Qld
- Overall, half were from outside of Brisbane (from Ipswich, Toowoomba, Gold Coast, Logan and Northern regions - none were from Central Queensland)
- At least 4 parents are known to be Aboriginal and/or Torres Strait Islander
- At least 7 parents are known to have a disability/disabilities
- At least 8 fathers and/or grandfathers gave input

## Are we getting anywhere?

This paper summarises the day-to-day impacts the ‘child protection litigation model’ has on **the families it is designed to serve**. The paper *does not* attempt to add to other stakeholders’ input around contemporary legal theory, practice, or service delivery models.

Parents provide a vital and unique perspective that **must** sit firmly at the forefront for decision-makers as they come together about the future of the ‘Child Protection Litigation Model’.

The parents consulted for this paper had recent experience of Child Safety - so it is not possible for *them* to know if things have improved or worsened. Unfortunately, we as ‘the system’ know things have worsened.

- *“I mean, I don't have familiarity with the previous system, but I can see the extra layers. Just from what we've been through.”*
- *“The multi-layered and entirely government backed and government representing themselves. In front of other government it's all just patting each other on the back.”*
- *“A judge at one particular time say to the Department, ‘It's not good enough and I don't want history repeating itself. She needs to go home and it's not a good environment for her to be in. Ohh and she needs to be seeing her parents a lot more than she is.’ This is when we used to get to see her. Once. A one hour a week. But the department just go, ‘Oh, it's just a judge. Don't worry about it. This is what we say. It doesn't matter what the judge said or thought.’ Yeah, that's how they work. And so there's these layers are actually enabling.”*

**Urgent, substantial and transformational reform** is needed because the system's results for children and families continue to go backwards. We know this not only because of the state and national data, but also because of FIN's own small-scale, local work with parents over the past decade.

To illustrate, in 2011, FIN delivered the *Working Partnership with Parents Report 2010-11* which raised **the same issues** for parents. This included a lack of early support, a lack of information and understanding about the process/system parents were being drawn into (including lack of any written information about rights or review); no involvement in planning of family supports; and no consultation on decisions made about their children. Suggestions in 2011 included more accountability and transparency; improved partnerships with parents; and additional assistance to understand the system and support their children.

## Summary of key themes and suggestions

To summarise upfront, it could be argued that, in the past 8-10 years, the many **additional layers of processes and professionals have created further confusion and intimidation for parents, and they also appear to have added considerable time to a child's time in care** – often with no perceivable benefit for the child, family, or Child Safety practitioners.

The common themes and key points made throughout the consultations were:

- Timeliness
- Reunification
- Voice of children, young people, and parents
- Power imbalance
- Early family support
- Affidavits
- 'Independent' assessments
- Legal representation for parents
- Information and communication
- Complaints system/s
- Evidence recording and standard of proof
- Diversity – include parents with disability and First Nations parents

There is a **massive power imbalance** between the system and the parent, and there is a **focus on 'winning' not on the best outcome** for the child and family.

Parents are focusing on the future for their children and young people but the process is creating disconnection: not only separating children from their parents, but also **separating parents from each other, separating the child from their extended family and kin, and separating children from their siblings.**

This seems to contradict Queensland's *Child Protection Benchbook 2023*, which states:

*"As well as applying the principles of the Director of Child Protection Litigation Act 2016 (Qld), the DCPL, as a representative of the State, has a duty to exercise its statutory functions in accordance with model litigant principles.*

*Model litigant principles reflect the court's and the community's expectation that **the State will conduct litigation in a way that is firm and fair.***

*Model litigant principles state that **fairness will be achieved when litigation is conducted promptly, efficiently, consistently and proportionately and in a manner that does not take advantage of another party's limited financial or other means.***

*Child protection proceedings are unique and **should not be conducted in a manner that is overly adversarial.** Similarly, court outcomes **should not be thought of in terms of 'winning' or 'losing' the case.***

*Instead, the DCPL's overarching obligation is to assist the court to make a fully informed decision in accordance with the provisions of the Act and the **safety, wellbeing and best interests of the child, both through childhood and for the rest of the child's life.**"*

[\(Child Protection Benchbook 2023 - section 3.2 - page 32\)](#)

Throughout this paper, we make **suggestions**. FIN's priority suggestions are summarised as:

1. Full commitment to the Child Protection Act's principle that **reunification must be the focus of the child protection system**, to use the 'least intrusive' options, and to provide families with post-reunification support so the family can heal from their experience.
2. Fund and ensure **mandatory immediate legal representation** for parents.
3. Demonstrate the means by which the **voices of children, young people and their parents** are "heard, acknowledged and considered seriously in all decision making" in the Child Protection Litigation Model.
4. Demonstrate the means by which **timeliness will improve** for the children, young people and their parents subject to the Child Protection Litigation Model.
5. Establish an independent **complaints process** and simplified processes.
6. Review the use of **independent assessors** (who write social assessments, psychological assessments, parenting capacity assessments), and establish a 'preferred supplier' panel of providers who are subject to regular standard quality reviews

7. Trial a new community legal service model – a **'family defender' or 'family reunification' legal service that focuses on child protection**. This model would include parent advocates with lived experience, and social workers as well as lawyers.
8. Expand the trial of **child protection lived experience Parent Advocates** to support families in various parts of the system.
9. Purchase, review and/or create a range of appropriate **'information packs'** for parents
10. Fully **implement the *Charter of Rights for parents involved with the child protection system in Queensland***.
11. The Child Protection Litigation Model review project should **facilitate a workshop** of all stakeholders to design the proposed changes to the Child Protection Litigation Model arising from this review.

## Themes, issues, and suggestions

### Timeliness – children’s lives being adjourned

*“It was meant to be six weeks – it took two years.”*

Parents and their children need improvement in the timeliness of processes.

Our experience is that parents mostly are ready to meet reasonable and documented timelines but the Department itself is less able to meet the timelines that now result from the complex litigation processes.

As part of this review, the Directors-General asked about “the timely resolution of matters for children and families; ensuring decisions made consider, and account for, key milestones in a child’s life ...” (question 8).

Parents often speak of their children’s lost time. Parents have concerns about the number of adjournments and the length of time between them. Things are taking months and years to resolve. Parents and children are missing out on sharing key milestones (birthdays, seeing their kid get a driver’s licence, etc).

A parent spoke of how they are at the “*reunification stage but that has been delayed another 12 months because of what has happened with the ‘residential care review’ and it’s just adjournment after adjournment*”. For one adjournment they had to wait from November to February - this meant no Christmas and no birthdays.

Key milestones in a child’s life are important considerations in determining supports and decisions about removal and reunification. However, parents’ experience is that these are not made a priority by the Department, and parents are often told they are not able to join in with celebrations such as birthdays.

- *“Child safety failed to tell me that the order had finished four months previously.”*
- *A parent spoke of experiencing trauma after having to wait for four hours in the court environment for their matter to be heard, only to have it adjourned.*
- *“There needs to be a legislated time frame. There is for parts. But then after the completion of the investigation phase, there is no legislative timeframe for them to actually go and provide documents and support. In my mind, that is nuts. The onus should be on them. Not on us.”*
- *“There should be a set timeframe between the end of the investigation for child safety and this is when you have to have your court stuff submitted to court, ready to go. In my mind, it would be two weeks, three weeks tops maybe. Obviously I know that’s crazy short for government.”*

Parents consider they are required to meet higher standards.

- *“Parents are required to meet strict time limits and requirements, but child safety, foster carers and lawyers seem to not be held to the same standards.”*
- *“There should be more transparent parenting goal plans with clearly stated goals and benefits. A roadmap for improvement. Parents need goals and things they can look forward to.”*

Timely resolution may be assisted if the system better followed the Director of Child Protection Litigation Director’s Guidelines to consider *“whether the child’s protection and care needs could be met by an order on less intrusive terms than the order Child Safety considers appropriate and desirable for the child’s protection.”*

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More parent comments:

- *“The CSO said, ‘We’re being told to recommend getting a lawyer.’ But they said, ‘Oh, it’ll slow the process to get a lawyer. But you know we don’t suggest having them here, you know, when we’re having conversations because it’ll just take longer to organise times and to have those meetings’ and stuff like that. Meanwhile, 3 weeks later, we (the parents) are the ones having to chase them (the Department) to arrange times.”*
- *“... chasing them saying like, hey, you said interviewing us was a big part of your investigation. It’s been a week and half ...”*
- *“... they’re saying she’ll be home in three days. ‘Ohh, just treat it like a sleepover,’ they said. Three days turned into 3½ years, possibly five years.”*

### **Get the kids back asap – aim for better reunification including post-reunification support**

*“The process is about the children but the focus is not on the children.”*

Consistent with the *Child Protection Act 1999*, **reunification must be the focus of the child protection system**. Families have told us that improved, intentional, transparent, and timely reunification work must be prioritised, and support needs to continue after the child returns home to prevent problems in the future. The family must have a say in the support that is provided after reunification - this may include therapeutic supports to enable healing and recovery from the trauma experienced due to removal.

A parent noted that while they are no longer in the child protection system and their kids are now home, the family is still dealing with the repercussions of what happened at the time.

*“Ongoing counselling and therapy that the children need – that the parent needs to resource and fund without assistance. Very hard to find these resources (psychologists and paediatricians).”*

Many parents say families need to be “*remembered and supported*”. (It is important to note, however, that other parents say they don’t want the government anywhere near their families again.)

*“... you can't put back together a smashed vase, can you? So once something's heavily broken, it needs to be put in the bin or remade.”*

A minority of parents said they were “different”. They were **not** seeking reunification because they know they are not equipped to provide for the **complex needs** of their children. They want and seek a permanent, loving relationship with their child, and wish to participate in creating the best future for them. They looked to “society” to provide support: disability and health services, education and training opportunities. Child Safety are given this role. Some parents said it’s worked ok if there was a good one-on-one carer. Most times parents say it has let their child down:

- *“There is no communication. I’m not allowed to even know if my child is alive.”*
- *“There simply aren’t the services and help that children need. Particularly in small rural places”.*

Significantly, for parents who experienced the system themselves, **acknowledgement and healing** must be a focus, to break generational cycles. We have been hearing and reading for decades about the harm caused by state intervention. The Child Protection Litigation project and all departmental reviews should build from the *‘Truth, Healing and Reconciliation Taskforce’*, and other reports and inquiries about the experiences of ‘care’ leavers - including Forgotten Australians, members of the Stolen Generations, and Child Migrants.

## **Children’s voices and views must be heard**

Children’s voices must be heard, not just “where appropriate” - it is *always* appropriate to enable their views and voices to be heard.

The stakes are high: parents say their children are experiencing things in care that are worse than what they were removed for.

FIN is aware of parents regularly stating that their children’s views and wishes have not been sought, and/or have been disregarded.

*“... and my daughter ... they're taking the first thing they hear. And they're not actually listening to her whole sentence. So they're just grasping at, at certain things that she said in the conversation and not looking at the whole picture of what she's saying. Also, they're turning her sentences and her conversations into the way they want to.”*

Parents speak of siblings not allowed visits with each other which means that they can't bond with each other.

FIN also hears there is inconsistency in the appointment of lawyers to represent children. Resources need to be made available to **enable all children and all families to be legally represented.**

Parents spoke to the lack of accountability for Child Safety Officers in Children's Court. It seems the children's/youth's safety and wellbeing has become secondary to the court process. One parent stated:

*"Their lawyers told them that they had to get the kids' opinions, which they didn't actually get for the nine weeks. All children are supposed to have their own lawyer as supplied to them."*

### **The 'help' is harming – fear, grief and the power imbalance**

*"It is so traumatic and it is so exhausting and it's just an assault on every single sense of your body."*

Parents have to deal with the grief of not having their children while at the same time trying to deal with the departmental compliance and court process. Parents say they are being traumatised by this. Some parents spoke of developing addictions as a way of coping with the stresses and grief from having their children removed.

*"Honestly ... I still do have panic attacks when I hear the phone ring."*

*"There was incorrect information in the Child Safety affidavit. It took 8 months and 5-6 court appearances (incl. adjournments) to be able to produce an affidavit that showed where Child Safety's affidavit was incorrect. That's not ok."*

The power imbalance is demonstrated by parents' views that they are required to meet higher standards than others in the system.

A parent spoke of feeling pressured/bullied into signing a document otherwise their child would be put into foster care: *"If you think your child will be placed in foster care you will sign anything"*.

It would seem there is an urgent need for **better accountability, more transparency, a more 'even playing field, and respect.**

A parent said they are held highly accountable as parents, but Child Safety is not held accountable until it is the subject of an Inquest. *"If you don't hold people accountable you can't fix the system."*

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More parent comments:

- *“Yeah, but again, that goes back to human rights. Every person has the right to be treated with respect even in this situation.”*
- *“Well, so essentially that process needs to be more transparent, either with a lawyer or with the parent advocate, because like there needs, at that point, to be 100% transparency, accountability to make sure that every side of the story and all the evidence available is being presented.”*
- *“Child Safety are a law unto their own.”*

### **Get to know us – and provide early support for families**

*“Why can’t the family all sit in a room to discuss things so that issues can be resolved without the need to go to court?”*

There needs to be opportunity for early support, family discussions, and mediation for parents to keep things out of the court system – the court system is a traumatic experience for parents, families, and children, and even for Child Safety Officers (CSOs).

Parents are concerned that Child Safety is quick to start litigation when early supports for the family would have been a better approach. Investigations are not being done properly, thus leaving parents to deal with the repercussions of children being taken into care for no reason (if the court decides there is no case to answer). There is an apparent lack of collaboration and transparency within Child Safety. Parents who were involved in other systems spoke about this lack of collaboration.

Early support and collaboration between parents and Child Safety in the first instance requires a simpler process.

One parent commented, *“I don’t think so many 3<sup>rd</sup> parties and supports are needed. I think they just need to make Child Safety those supports”*. This highlights parents’ confusion about “what everyone does”. **Parents have to become the ‘case manager’ who communicates with, meets with, complies with, and chases up four or five different agencies or workers** about their child.

Consistent with best practice case work and case management, **one consistent person (or team) is needed for a family**. Everyone on the team should get to know the parent, child, and family and sees them interact.

CSOs and case managers were also described as ‘wolves in sheep’s clothing’ - parents built trust with them and thought they were there to help the family - but then “*every word and action*” was being gathered to be used against them later:

- *“Respectfully, they’re not treating us with the benefit of the doubt. They’re not like here to help. They’re actually here to accuse you and make you in the wrong.”*

- *“And it's like, oh, this team leader who's making decisions never even met us. The CSO who's come to our house never went past our living room. Has spoken to our children once and is making all these decisions based on that. It's like I've been an open book from the start. This is not fair treatment.”*

All parties should communicate regularly and transparently, and they should consistently adhere to the *Charter of Rights for Parents*.

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Suggestions:

- Need to provide support for children throughout the Court process and beyond that. The process is about the children but the focus is not on the children.
- Parents speak of the need for a holistic approach, a whole-of-government (Queensland Police Service, Department of Justice and Attorney-General, Communities, Child Safety and Queensland Health). *“Should be a bucket of funds to establish an independent body that provides/commissions services that look after family welfare. Supports should be structured around family needs to build capacity.”*
- More support in regional and rural areas. Parents in **regional and rural** parts of Queensland speak of the acute lack of services and supports to help their children – **particularly children with disabilities**.

### **Affidavits – “this is not me!”**

The way Child Safety compile affidavits has consistently been described (for years) by parents as the most distressing aspect of the litigation process.

Parents are being handed ‘phone book’ sized affidavits (some 300-400 pages) of “how terrible a parent you are”. A lot of the information is irrelevant.

One FIN parent member has repeatedly said, “If you can’t prove I’m a bad parent in less than ten pages, then I don’t think you have a case.”

Parents spoke of:

- an affidavit alleging they had only sent their child to school four times in six months. This was not possible - the prep-level child was removed in April so he’d only been in school for two months (not six months).
- an affidavit stating that his son was a patched member of the Bandidos motorcycle club. The child was 3 years old.
- her entire Medicare record being printed out and included, despite this parent never having had an issue with drugs or being accused of taking drugs. The Medicare record contained pill prescriptions (ventolin puffers, antibiotics) - that is, nothing of relevance. In the parent’s view, irrelevant information is printed out for the **“theatrics at court”** to make it look like Child Safety has created

this tremendous file of how bad the parent is. In this parent's case it only took an 8-page affidavit prepared by their lawyer to rebut the Child Safety affidavit.

Conversely, other parents argued that vital information is being *left out* of affidavits. *"Child Safety aren't breaking the law or tampering with evidence – they are just leaving out vital evidence and creating their own narrative."*

A parent suggested that it is very much a deficit-based approach. It feels like they are trying to find everything that is possibly wrong with this family and hold it against them.

Child Safety legal paperwork rarely acknowledges when parents are doing things right. Parents recalled, in great pain, reading the material at the time, and thinking, ***"this is not me!"***.

A parent spoke of how criminal charges relating to them dating back to 1991 were submitted in an affidavit in 2018. When the affidavit was presented to court it made it look like this was all current. Left out of the affidavit were facts showing that they hadn't committed a crime in 26 years. They had committed the crimes when they were 17 and had been clean from all alcohol and drugs for 26 years. Their children spent nearly a year in care until the case was thrown out.

- *"They [Child Safety] tell outright lies. They twist the truth. Sick of the damn lies."*
- *"... making up stories, which is what they did, there was false reports to begin with from the very word go. I scanned through the department's first set of paperwork they gave us when they took our daughter. And I still will stick to exactly what I said then it's 80% rubbish and 20% is elaborated."*
- *"And if they can't prove one thing? They'll go on to another thing."*
- *"Ok we definitely know now that they're not on drugs. So we're gonna push that aside, and go with something else. (even though they keep giving us drug tests)."*

## **Out-sourced 'independent' assessments**

Parents highlighted concerns regarding departmental or court-appointed psychological and other 'independent' assessments which hold a lot of weight in the court process. There were many concerns that there is a bias against parents.

One parent said that Child Safety is using the same psychologists to get the same outcome. They spoke of a psychologist who has done over 600 psychological assessments over 16 years for Child Safety and has never found in a parent's favour.

*"It's cash for comment. It's borderline criminal."*

A parent spoke of how she had a history of many years of domestic violence. When she and her partner (the person using violence in the relationship) had to do their **social assessment, the partner was invited in first and she had to sit in the waiting room. The partner smirked and blew her a kiss on the way out. When she was doing her assessment, the assessor was saying, "well that's not what he said"**.

The assessment was done in the same room as where she was having her one hour per week supervised visits with her children.

From a different perspective, another parent said they asked the Department if it would help argue their (the parent's) case if they could get their own psychologist report to back them up. "But most psychologists aren't even taking people because it's a wait list of 6 months to 12 months."

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Suggestion:

The **use of independent assessors needs to be more closely scrutinised** with consideration of the appointment of a preferred supplier panel of providers who are subject to regular standard quality reviews that includes feedback from participants (parents, departments, courts, and other stakeholders). The use of independent assessments should only be used where there is not enough evidence already gathered showing that parents/families are willing and able to safely care for their children.

### **Mandatory legal representation for parents – from “day one”**

*“... it's been like pretty much nothing's explained to you at all. It's like going to a Bali prison and they make you sign something that's in Balinese, you know ...”*

For years, FIN parent members have consistently called for **mandatory legal representation** for parents in all circumstances.

There needs to be mandatory legal representation by lawyers who are specialists in Child Safety. Parents should have access to lawyers all the way through (even through long term orders).

Parents are firmly of the view that **they need to be supported from day one**. Legal support needs to commence at the first interaction with the child protection system - every discussion and decision is noted by the Child Safety Officer and can be used in the litigation process.

*“Once litigation starts they're not stopping.”*

Currently, parents have told us that they have been unable to access legal representation for many reasons, including the provider being “conflicted out”, or not wanting to work in “black on black” cases. In other circumstances, the barriers are that parents do not meet the merit test or means test (even though they cannot afford private legal representation).

If additional resources cannot be allocated to publicly available and appropriate legal services, it is clear that the system is too legalistic and needs to change, or litigation is not being properly considered as the last resort.

- *“Read this jargon – because you know I didn't even know Department of Child Safety existed until they turned up at my front door. I would have walked past these buildings a million times and never knew they were there. Like, ‘Oh yeah, it's just an old grey building.’ And then being stuck in one all the time to visit my child ...”*

There are instances where voluntary agreements have ended up in the court process which places the parent behind in their understanding and ability to respond - and early legal representation would likely have prevented escalation to the courts.

- *“I was not advised at all to get legal representation. Nothing involving the legal part of things also court dates, didn't get notified to be involved in legal matters where I could have had a say. I was helpless and felt I had no rights or no say, I couldn't change what was happening. By the time I knew I needed a lawyer it was as already too late and it financially strained me just to have legal representation only to have matter adjourned until I gave up and the department got their way.”*
- *“Without competent representation (without representation at all) I was denied due process and still stand separated and estranged from my children to this day.”*

Parents have concerns that Legal Aid in some cases is providing incorrect information to parents that it is not able to represent both parties.

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Other comments from parents:

- *“I had to represent myself as no one else believed in me: I knew I didn't deserve my kids removed so I represented myself.”*
- *“We had to self represent. We sort of felt like we were getting bombarded with lawyer after lawyer and then with the ICL (Independent Children's Lawyer). Basically working with and alongside the DCPL [Director of Child Protection Litigation] and alienating us. Completely. It was like we had two teams of enemies against us. As well as the actual trial that we had no lawyer for. And that was really tricky. Now we do have a lawyer, but we've got to pay through the nose for it.”*
- *“Legal Aid is a lengthy and difficult process to access, and lawyers are not experienced in Child Safety.”*
- *“So for 6-7 weeks you've just ignored us and now suddenly you want me to sign? What happens if I don't do it? They said, ‘Oh, we'll just have to get a court order for you to do it’.”*
- *Get a lawyer! But the Department said – that's not going to speed things up for you. I would recommend not to. That was the kind of thing we were told.”*

### *Other legal representation challenges – paying for lawyers*

- *“Absolute requirement for representation. Regardless, whether you own your own home or not. We are on pensions. Yes, we own our own house outright and our cars and everything. However, we don't get Legal Aid because we should be able to sell our house and live on the street and pay for a lawyer.”*
- *“If you're arrested by a cop, they ask you can you afford an attorney or not. If not, we'll give you one and that should apply for everybody.”*

### *Other legal representation challenges – married couples*

Parents spoke about not being able to be represented together, or even worked with together. There was always an assumption there was something wrong between them, so they felt they were “pitted against each other”, always separated. Including by lawyers.

- *“Even if they give you a duty lawyer on the day you've got two married parents. So why can't you do both of us? So it just doesn't make sense.”*

### *Other legal representation challenges – interrelationship between Courts*

Parents spoke about the Children's Court and Family Court: and so Children's Court delays impact Family Court matters.

*“The legal system doesn't put family first because they don't let families in the courtroom.”*

### *Other legal representation challenges – lack of support for grandparents and kin*

Grandparents and kin say they fall through other cracks in the system. The Queensland [Child Protection Act 1999](#), **'5BA(4) Principles for achieving permanency for a child'** states “(a) the first preference is for the child to be cared for by the child's family; (b) the second preference is for the child to be cared for under the guardianship of a person **who is a member of the child's family, ...**”.

FIN has heard time and time again that extended family or kin were not considered (or deemed appropriate) prior to the child being placed in the care of others. We also heard that extended family were not eligible to get Legal Aid.

- *One grandparent spoke of how their own parents had “worked hard all their lives and had to use all their superannuation to fund legal representation”.*

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Suggestion:

FIN suggests that the department invests in a **trial of ‘family defender’ or ‘family reunification’ community legal services** that focus on child protection - this model would include parent advocates with lived experience and social workers as well as lawyers. The team would be allocated immediately to parents. These workers would then follow the parent for the entirety of the intervention. (One successful similar model in the United States operates from the [Centre for Family Representation](#).)

## Information and communication – including the Charter of Rights for Parents

*“An ‘Intervention with Parental Agreement’ was the very first document they handed us.”*

FIN heard parents say they need to be provided with easy to understand information at the first meeting. *“The information should include the Charter of Rights for Parents and an application for Legal Aid.”*

(Note: in 2022, FIN parent members and the Department jointly released the [Charter of Rights for parents involved with the child protection system in Queensland](#).)

Parents want to have education about the court process. FIN has never heard parents say that they were made aware of the processes and expectations. It is likely, of course, that Child Safety Officers do attempt to convey information to the best of their ability. However **everyone, in the scenario of having your child taken, is experiencing acute stress and has vastly diminished ability to understand and retain information.**

FIN regularly hears suggestions from departmental officers of all levels, musing about creating an ‘info pack’. It is hard to understand that this tool or letter does not exist.

Parents and legal services over time have drafted useful information packs aimed at supporting parents.

Parents want to be able to understand how to navigate the system. They say this can take many months to even come to understand the basics. And they point out that it’s worse for people impacted by other barriers to understanding mainstream and complex information – such as people with disability/disabilities and those who speak and read languages other than the mainstream. A range of other barriers to understanding were also mentioned such as post-natal depression; neurodiversity; learning and reading difficulties; and mental health conditions.

- *We were “given a folder of information but it’s hard to get your head around the process and the jargon.”*

- *“Apart from the safety plan which had the CSO's name on it, we never got the name or contact details of her or the CSO and it ended up being just us.”*

The Department has previously funded a small initiative to train parents in systems advocacy: the expansion of this initiative to the **funding of dedicated roles for Parent Advocates with lived experience** of the child protection system could assist parents to understand the system better.

*“When you look on their website, it's got all these little steps, but, at any of those steps you should be able to say, ‘Actually no! The answer is no.’ Whereas in fact it was all just pushing you down until they got you to the point where (they said), ‘You can do a child protection order or do this or that’ and communication was like bare minimum.”*

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Suggestions:

- The Charter of Rights for Parents should be fully implemented.
- Better information and legal referral must be provided immediately and continuously to parents.
- Fund an expanded trial of lived experience Parent Advocates.
- Purchase and/or co-design a range of appropriate ‘information packs’ for parents.

## **Complaints are complex and must be made independent and external**

*“You know most organisations will have a complaints process. But when you're making a formal complaint to a government department, it's not my expectation that will be sent back to the government department that I'm complaining about. I would expect to have at least a person who is external, come in and have a look at that.”*

Complaints are one of the most contentious areas for parents.

There are currently five Queensland government entities with a Child Safety appeals or complaints role, depending on the timeframe and issue. FIN strongly recommends simplified processes and the **establishment of an independent complaints process**.

**More comments from parents:**

- *“The complaints process pathways are extremely long and do not provide the immediate help that parents in crisis need. I was told I had to wait a further six weeks (after waiting eight weeks during the Child Protection process) for the complaints process of the Director-General's office. If I went to the Human Rights Commission it would be between six to twelve months, otherwise the Ombudsman would be six months minimum. This is why parents feel so helpless and abandoned, losing trust in*

*the government and the system that is meant to be working in the best interest for children and families.”*

- *“My mum sends an email to the Director-General. Just saying, can you please help us because Child Safety is essentially screwing my son over (in obviously more polite words). Three days later, the manager of the Child Safety Office in [place], contacted us saying, ‘Hey, I’ve heard you made a complaint’.”*
- *“It goes back every time you make a complaint. It doesn’t matter which department you make the complaint to, like what section or what it’s about. It always goes back.”*
- *“There’s just no logic like there’s just zero logic. We’ve done heaps of different complaints to heaps of different places and it always ends up biting us on the nose and then in family group meetings, they always bring it up. You’re doing too many complaints there. You’re doing too many complaints here. You’re doing too many complaints there.”*

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Suggestions:

- The creation of an independent body, separate to the Department, to oversee the complaints process.
- The creation of a better ‘plain language’ flow chart by parents for parents.
- Throughout the complaint process, support should always be available for the parents, the children/young people, and the family as a whole.

Other [suggestions made by FIN](#) over the past two years.

**If it’s an adversarial, legal process – rather than a ‘helping’ process – then make it like a ‘criminal court’**

*“I would have received more due process, more legal assistance, more legal attention if I had gone on a murder spree. But all I did was reach out for help as grieving parent ... Afraid ... However, it is those children that continue to pay the highest price.”*

Parents consider that there is no accountability in the Children’s Court for Child Safety officers. *“They can say what they like.”*

A parent suggested that child protection litigation processes should be conducted like criminal cases in terms of the time allowed for parents to consider the affidavit (i.e. well before court). Some parents say they aren’t afforded the same courtesy as people facing criminal charges.

Other parents are shocked that interviews are not recorded “like other government officers”.

- *“Our lawyer’s right, you know, I think during the first couple of sessions she just was gobsmacked that they were not recording these conversations. How can you not be recording this conversion?”*

- *"If they're not recording things with some sort of device, it's coming down to their opinion and it's your word against theirs. And so they essentially they pit you against each other."*
- *"Every other, like government organisation, like police, ambulance, they have body cams. They have all this stuff to make sure that, you know, things are documented in a good way. And like there must be a truth point, you have to have something."*
- *"Recorded that is not just your opinion. Anything else that isn't recorded is purely opinion and you cannot use that in a court of law if you don't have evidence to back it up."*
- *"I realised they were twisting our words. And that's why we decided to start recording them and their response to us recording them was, 'Oh, oh, sorry, we don't do that. We don't do recording.' And I was just like, 'Well, this is what my lawyer's recommended. I'm following my lawyer's advice'."*

## **Diversity – don't treat all parents the same**

While FIN is a mainstream service we hear regularly from a parents and family members with a range of abilities, cultures, and backgrounds. Some key comments are provided below.

Interestingly, parents consider that the system treats all parents the same despite them having diverse needs.

FIN is aware the 'Child Protection Litigation Model' project has sought consultations from the disability sector and from the First Nations organisations, so **we defer to the expertise of these organisations and their members.**

## **Parents with Disability**

- *"In the affidavits why are there so many pages and why are the words so small in lot of pages?"*
- *"Please tell the children's court I'm a good disability parent please stop the false accusations and negative materials about me."*
- *"Parents with disabilities should have the rights to raise their kids in their biological family home."*
- *"I have experienced lots of discrimination, stigma, hurtful rude comments about my disabilities. Be called a liar. They did not believe me that I was raised in care."*
- *No bonding time for parents with infants. A young parent with a disability spoke of having their newborn infant removed before they could bond with them or even provide a first feed.  
"It is a child's right to bond with their parent."*
- *"How do you know in 5 hours whether someone is going to be a good parent or neglect their child?"*
- *"Parents with a disability should have a support person throughout the court process."*

## First Nations families – including Delegated Authority

A fundamental barrier in the system appears to be the inflexible definition of family which does not consider those family members beyond the parents (many grandparents, aunts, and uncles provide caring roles in both First Nations and Culturally and Linguistically Diverse (CALD) communities).

A First Nations grandparent spoke of being told, “You’re the grandparent, not the biological parent”. In his view, he has a direct biological link to this grandchild as he comes from his bloodline.

- *Before taking drastic measures, Child Safety needs to look at the broader picture and look at the family unity itself and ways to eliminate children being taken. Address issues at the family level first, and at the community level (it takes a community to build a family). Look at the structures that each individual community can bring together to strengthen their children being within that family unity.*
- *Child Safety uses jargon and language that community people don’t understand.*
- *Communication between Child Safety and people in rural and remote communities is poor. CS is making decisions and putting temporary/interim orders in place without notifying people.*
- *Access to courts and related supports for families in **remote, rural, and regional communities**. This is an issue for accessing appropriately qualified supports and lawyers, receiving timely and complete information and to visit children. Children removed from Lockhart River get put on a plane to Cairns. It’s an 11-12 hour drive to Cairns for their parents.*

Another family made positive comments about the use of the ‘Delegated Authority’. He said he does not know how the Delegated Authority became involved but is glad they did.

*“ ‘Delegated Authority’ sounds scary ...  
it should be called ‘It’s All Good’.”*

- *“Everyone should get support [from the Delegated Authority]; these workers cared about our progress and made us feel like family.”*

The experiences of the family who spoke with FIN showed a contrast between working directly with Child Safety and via the Delegated Authority. When working directly with Child Safety they were “going for 18 years” and not updated on progress, told they did not need to attend court or that decisions had already been made. The parents indicated they always complied with these instructions (such as not going to court) as they did not want to be penalised and have their visits reduced.

Working with the Delegated Authority “we got our children returned home in under 13 months”.

# Suggestions

Throughout this report, we have made a number of suggestions. FIN's priority suggestions are:

1. Full commitment to the Child Protection Act's principle that **reunification must be the focus of the child protection system**, to use the 'least intrusive' options, and to provide families with post-reunification support so the family can heal from their experience.
2. Fund and ensure **mandatory immediate legal representation** for parents.
3. Demonstrate the means by which the **voices of children, young people and their parents** are "heard, acknowledged and considered seriously in all decision making" in the Child Protection Litigation Model.
4. Demonstrate the means by which **timeliness will improve** for the children, young people and their parents subject to the Child Protection Litigation Model.
5. Establish an independent **complaints process** and simplified processes.
6. Review the use of **independent assessors** (who write social assessments, psychological assessments, parenting capacity assessments), and establish a 'preferred supplier' panel of providers who are subject to regular standard quality reviews
7. Trial a new community legal service model – a **'family defender' or 'family reunification' legal service that focuses on child protection**. This model would include parent advocates with lived experience, and social workers as well as lawyers.
8. Expand the trial of **child protection lived experience Parent Advocates** to support families in various parts of the system.
9. Purchase, review and/or create a range of appropriate **'information packs'** for parents
10. Fully **implement the *Charter of Rights for parents involved with the child protection system in Queensland***.
11. The Child Protection Litigation Model review project should **facilitate a workshop** of all stakeholders to design the proposed changes to the Child Protection Litigation Model arising from this review.

## Appendix

### Child Protection Litigation Model (as at 2024)

#### FIN'S SURVEY FOR PARENTS

The online survey was open for three weeks, from 13 to 31 May 2024. Twenty-two (22) people responded.

The survey's summary report is below, with most of the qualitative question responses provided in the following excerpts.

#### Excerpts - qualitative question responses

Note – as reasonably expected, FIN removes personal and identifying information, and reduces some responses. We remove some words and phrases that, in FIN's view, do not extend the description of the experience nor solution. FIN acknowledges that responses given describe the reasonable thoughts and emotions regularly described in recounts of parents' experiences with the 'child protection' system. By reducing some words, FIN aim is to improve readability, as well as continue to highlight FIN parent-members' strengths and objective solutions-focus.

#### HOW COULD COMMUNICATION AND INFORMATION SHARING WITH PARENTS BE IMPROVED?

I found that having my own parent support worker through a support agency helpful, as she would liaise with Child Safety on my behalf, and attend meetings, and then share information with me that was easy for me to understand and provided to me in a way that reduced stress, anxiety, and confusion. I think all parents should be allocated their own support person to liaise with Child Safety on their behalf, to make the overall processes far less stressful and far more productive and manageable, especially for people with disabilities.

Phone calls about absolutely everything that needs to be communicated & understood, and if not a phone call an email! A face to face meeting with someone with a legal background and the child safety officer to clearly identify exactly what's happening.

Simpler wording would help

Document and store appropriately and don't lose

don't lie and be upfront

I don't believe anyone should be a child safety worker unless they actually have children or have raised children.. text books don't help with parenting

Everyone needs to be on the same page as far as what is being asked for and why

It could be improved drastically if the department played their role the same from the beginning of any case all the way through.

They go to extreme lengths to extract information from resources and inform the courts of anything and everything but can't use the same initiative in providing any relevant information to parents.

They act as if their hands are tied and they don't have the capacity to maintain communication and notify parents of anything happening with their children or listen to their concerns.

This communication breakdown on the departmental end is really unbelievable from people who can communicate their concerns regarding children but have absolutely no interest or intention to communicate with the parents of these children who do have the best interests of their children more than any stranger could.

It begins at the premise and reason for the communication. In no way was I under the impression a CSO's focus was with communication or information sharing with me. The truth is communication was deliberately stifled they don't want to share information fairly. Because it contradicts their end goal. It's not about the best interests of children that's a fallacy it's about building cases.

Communication needs to be on a positive level - such as respect. Two-way street. If the Dept respects the family; and deals with the family FIRST before engaging with the police, schools, hospitals, medical services (and breaching our confidentiality in sharing this information). Especially in rural and remote communities - where word of mouth / gossip.... parents and families are then tarnished / stigma follows them.

Transparency and honesty. Accountability. Without accountability I see no reason why they would ever improve. Everything I got under my [Right to Information] request was redacted. Except my own name. This was a couple of years ago now. So I apologise. But I'm tired and vague

Not making it so one sided

Make information available to both parents at all times

It could be improved by the person giving the information firstly to be unbiased, non judgemental, open minded, trained and experienced enough to be able to communicate in all different ways to ensure information gets through to the other party and have the goal of the kids well-being first and foremost and that they are best with their families, if they communicate with that knowledge and mindset then they'll find a way to get it through to them.

By not deliberately waiting until a few days before court to give U case plan

Don't separate the family. Allow both parents work as a team and have the same Solicitor

That the child safety officer gets back to you instead of you calling multiple times until the officer is in the office.

**WHAT WAS MOST HELPFUL ABOUT THE LEGAL PROCESSES OF CHILD SAFETY (EG. LAWYERS, AFFIDAVITS, COURT, ADJOURNMENTS, EVIDENCE GATHERING SUCH AS PARENTING CAPACITIES, SOCIAL ASSESSMENTS)?**

The Court convenor. Greatest respect and regards for that man

When the lawyer had time to sit and explain to me what was happening and what they would recommend.

They could be called on a mobile whenever needed

I didn't have anything very helpful happen with the court process, apart from my lawyer telling me I may as well agree to a two year order so my children would come home from the date I agree, otherwise it'd be pushed back further and further until I agreed. Which I didn't really agree with but that was the most helpful advice because it was going to happen regardless.

The only thing that helps is if u have a good worker who listens as if u get a bad worker nothing u do is good enough

Nothing but luck & tenacity on my behalf. My story has a happy ending only because I had a half decent lawyer, a lot of outside support, and I didn't give up.

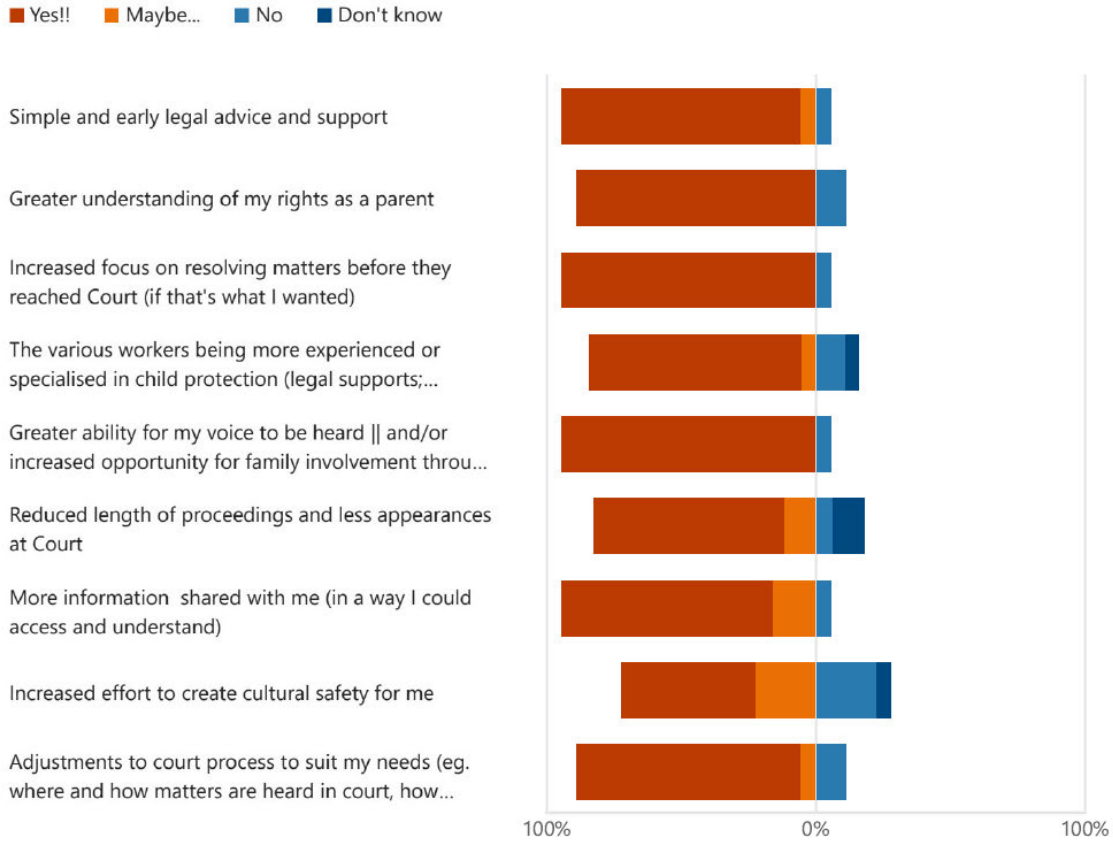
no - because you have "wolf in sheep's clothing" - meaning staff have conflict of interest: their interest is the welfare of the dept they work for not the welfare of children.

Legal aid lawyer

Myself ! I had to represent myself as no one else believed in me and I knew i didn't deserve my kids removed so I represented myself so I knew it was someone who actually wanted the same result as me doing it , most helpful was to show me what I'm capable of

When I did show up to court it was much better in my favour.

**Thinking about the legal processes related to Child Safety – here is a list of things some people think might have helped. Do you think they'd help?**



The online survey respondents reinforced the decades of suggestions from parents – as well as the models and evidence that have been assessed as effective. The strongest being:

- Simple and early legal advice and support
- Increased focus on resolving matters before they reached court (if that’s what the parent wanted)
- Greater ability to have their voice heard, and/or been involved throughout
- More information shared (ie COMMUNICATION)

**WHAT WAS MOST UN-HELPFUL ABOUT THE LEGAL PROCESSES OF CHILD SAFETY (EG. LAWYERS, AFFIDAVITS, COURT, ADJOURNMENTS, EVIDENCE GATHERING SUCH AS PARENTING CAPACITIES, SOCIAL ASSESSMENTS)?**

I'm only just starting this process but **no one is helping explain much and it's very frustrating as I don't understand a lot.**

Legal Aid is a lengthy & difficult process to access, and lawyers are not experienced in Child Safety. Affidavits are full of lies, **historical information that is no longer relevant, or out of context.** Court is **confusing and scary, constant adjournments** (in my case because **child safety had not done what they were supposed to since the last mention**). Evidence gathering is **deficit based** and I can't help but feel it's done for shock value in court - presenting a judge with an affidavit the size of a phone book. Social Assessments not conducted in a trauma informed way or impartial way.

Repeatedly getting knocked back in court like I was unworthy, **regardless of the countless documents of positive evidence I had gathered from associates in favour of my kids coming home.** Also, child safety had organised a court date without my knowledge, hoping to proceed with an outcome with the children's father being video linked in from jail.

Court. You'd sit around for **ages for nothing with a hundred other people trying to talk to your lawyer.**

Corrupt court system, **unsafe court ordered visitations with perpetrators,** child safety losing documents, child safety giving bad advice costing money, putting children in unsafe circumstances, child safety intake line not documenting properly, no cultural respect or safety

lawyers not listening, adjournments, and **no-one actually listening to what the children want**

1. The excessive amount of affidavits being served, including one for every minor change
2. Inadequate evidence gathering - **important and relevant information not being shared** and unbalanced and **prejudiced social assessments** being conducted regarding parent capacity - not realistic or fair views
3. Serious risks to children being ignored once matters have reached court at a time where that matters the most

I was **not advised at all to get legal representation.**

Nothing involving the legal part of things also court dates , **didn't get notified to be involved in legal matters where I could have had a say .** I was helpless and felt I had no rights or no say , I couldn't change what was happening. By the time I knew I needed a lawyer it was as already too late and it **financially strained** me just to have legal representation only to have matter adjourned until I **gave up** and the department got there way .

The lawyers are running a business...

just not giving enough time for families to obtain legal advice in regards to removal of children. eg. remote community which doesn't give the family the time to go through the legal mediation stuff/process pertaining to the children.

Lawyers need more funding to assist responding parties to litigate more affectively for parents  
Evidence gathering needs to be taken seriously by department workers so they don't form a bias view of parents capabilities

There were no short term orders made first. I was unrepresented in court due to lawyer issues. And the judge told me I was consenting to the orders despite me protesting the opposite. I will never forget that day. It didn't matter what the law was, what the circumstances were, what the truth was and what records I had kept (which were very thorough). Without competent representation (without representation at all) I was denied due process and still stand separated and estranged from my children to this day.

I would have received more due process, more legal assistance, more legal attention if I had gone on a murder spree. But all I did was reach out for help as grieving parent... Afraid...

However, it is those children that continue to pay the highest price.

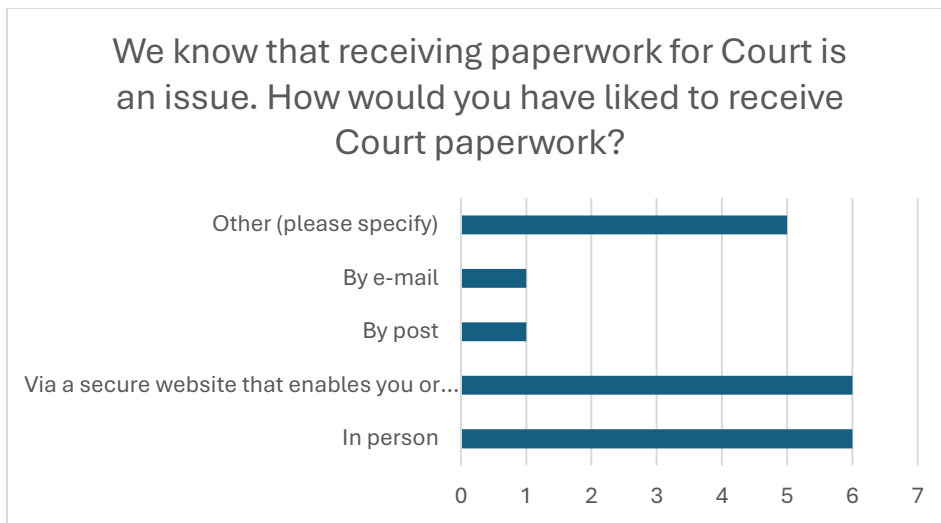
No support in any area , lack of staff In cs, lawyers who don't care about winning your case, being judged for something you aren't , having made up lies being used as facts against you in court , not being judged fairly for your parenting capabilities and being punished with your kids and them clearly seeing it causing trauma to the child and they do nothing to stop that reoccurrence

Child safety always acted like we didn't need to go to court because it wouldn't make a difference.

Not acting in the best interests of the child making decisions that don't make sense prolonging court  
not working with the parent

ALL - lawyers, affidavits, court, adjournments, evidence gathering such as parenting capacities, social assessments

## How would you have liked to receive Court paperwork?



### “Other” – ideas and suggestions

- “I would like to receive immediately and at the same time everybody else involved receives it because **as a parent I am always the last person to receive any paperwork and when I get it decision have been made** so it's just feels like getting **so much dumped on you in one go** and nothing you can do about but read it and feel helpless”
- “Being a big state - **not every community has access to quality internet or computers, or essential and regular delivery of mail services** to regional and remote communities. by this time the Dept has used their time to litigate temporary injunctions or orders. Time might have elapsed (3 day order or 3 months). And re "a lawyer to download documents" - or advise - they dont HAVE lawyers in these communities.”
- “By your **support person that should be appointed to you** prior to the children being removed , someone who knows enough to help you navigate the system and work alongside yourself and child safety to keep your kids in your care or have them reunified as quick as possible”

## IN SUMMARY: WHAT DO YOU WANT CHANGED IN THE CHILD PROTECTION LITIGATION SYSTEM?

The charter of rights to be supplied to every single parent who's lost their children. Information & support guidance for the parents needs to navigate through the battle. Clear & effective communication so the parents understand what's going on.

Honesty and truth is paramount.  
Corruption should not be an issue in 2024

For children that have been harmed to have nil contact with perpetrators  
everyone listening to what is being said & not being judgemental

Parents given more support from the start not their kids removed

More legal aid lawyers, not just scraping the bottom of the barrel or trying to see a duty lawyer. It needs to be easier to be approved for legal aid, like if you've got more than one thing going on like a DVO and also child safety, you should be able to get help for both. They need to also hold child safety accountable for if they lie or exaggerate, if they don't have proof then their allegations should be thrown out like in criminal court.

I would like to see a more fair, equal and balanced legal system in place for both Child Safety, children, and parents. Child Safety need to understand that most parents don't have experience with the legal system and are being overwhelmed with endless legal documents, adjournments, and assessments that are causing undue stress. This will then affect and impact on our capacity to being able to adequately handle the legal aspects of the child protection system. We need people who can help us and support us through this. I also believe that Child Safety should be transparent in their views and beliefs in regard to child protection, and that needs to extend to court, to ensure that any decisions a court makes, will help keep our children safe and protected from harm. Child Safety, as a government department, have all the tools, knowledge, support, and experience, at their disposal, but we, as parents and vulnerable and inexperienced individuals, do not have that luxury, and that significant imbalance, will always pose problems, especially when it reaches the stage of court. We are set up to lose before that process even begins.

I want parents to know what their rights are from the very first point of any child safety involvement , I want child safety to make sure that parents understand. **Parents are constantly being taken advantage of leaving their children to become victims and the parents feeling like the perpetrators due to a basic communication barrier that the department puts in place to ensure parents can't have a say or influence the process that intend to go through with .**

I want supports in place for parents immediately as babies are removed by the department to protect them so they are safe so **why aren't any resources and supports going to parents in that time to improve the situation or be able to be capable to address the concerns and have a chance of being reunified with their kids instead of being isolated and victimised and going downhill where parents become incapable of being able to parents .**

I want lawyers to be accountable for their churn and burn legal practices when dealing with clients under child safety. I want the judges findings in family court to be recognised by the department ie precedence and the outcome of cross examination should be respected and taken into consideration by the department. **I don't want the biases of social workers like a CSO having the power to remove children from a parent at a whim, over riding the findings of a federal court judge without further investigation.**

I want **complaints especially serious complaints to be reviewed by a completely independent body not in house** as it is done now despite the departments claim that complaints are independently reviewed. These are a few examples ultimately I would like to see a complete overhaul of the department

Less focus on trying to 'prove' a parent is 'bad'. More focus on what the family is struggling with, and how can they be supported to function in a healthy way.

They need to have a better understanding of their roles and responsibilities within the Dept - as well as knowing the policies and procedures pertaining to the removal of children!

ALSO Re workers' experience or qualifications - child workers case workers and case managers need to have the relevant qualification in dealing with families and children. eg. qualified psychiatrists and Doctors making informed decisions on the family environment.

Ideally if we started again:

(1) strengthen your cultural awareness (2) a greater understanding of policies and procedures - and understand the Charter of Rights for Parents.

Safe parents need a voice

**Legal assistance actually being available.** How can I sit in limbo? Unable to be helped?

That it's actually dealt with in a fair and honest manner

Everything , from the staff to the risk assessment to the lack of knowledge given, the reasons kids are being removed and how many other ways or options could be made available before removal is necessary, child safety's goal to reunify children and not just to punish parents already struggling , the whole idea of child safety is **they are employed to make sure our kids are safe , they are causing more traumas from removal of the children from good parents and neglecting there needs when they clearly want to be home with there parent, No amount of counselling will fix that;** them being where they belong will , having a more clear view ahead for goals u have to reach , what you'll achieve when you reach them, Dv cases should never be removed from the person being abused , they should all be relocated safely but into support homes with workers whom can support them until they feel strong enough to go it alone with there children there the whole time , **the reason kids went into care should be what's addressed not the things that arose due to the kids being removed from care , mental health records should never be used against a person unless it's a condition that they could murder there child, not people suffering from depression or grief , child safety to realise once you remove a child from its mother ,, it paralyses us , we can't move we can't think we can't function, it's like putting us into surgery and cutting out our heart and lungs, wheeling us back in on life support and telling us, once we turn this life support off you need to continue on your own, but without a heart and lungs it's impossible to continue living , imagine the children as the heart and lungs and that's how it feels to have them removed , and every time you see them and they leave again you feel like they have died that's how much the pain is for a parent. And when someone dies you grieve through the stages but when a child repeatedly leaves in care , you never get through the grieving process u just start it and it never ends it only begins over and over again , maybe if they realised how we felt they might understand our reactions or actions aren't due to us being bad people but due to struggling with the situation and the fact they are going through it , use the kids as a reward system, support parents to reunification , add extra parts to your risk assessment that would actually determine each individual , make sure accusations are proven before you ruin a families life over lies , engage with the parents , face to face , things get misinterpreted over the phone , treat every case like they are getting them home soon, make it easier for parents to get to there visits , keep the same officer throughout the case so they know what's actually going on ,**

Equal rights across the board for parents, children and caregivers.

**A hotline for information to navigate** is another option for those who don't want to work personally with someone or don't feel they need to, one phone number that connects them to all the information they need , what orders mean , what places can help, what there options are , a list of what they need to apply for and what the process is , and connections to all free services including legal info , transport for visits , counselling and this one number has all this knowledge and can transfer you to where you need to be.

Everything.

Better the focus on the child.

Support support support all different kinds in all different ways start to finish

## IS THERE ANYTHING ELSE YOU'D LIKE TO SAY?

If you decide to do changes to the risk assessment and questions and you'd be open to Having a parent ( myself ) there during the process I'd love to work side by side with someone to help add the right questions to ensure it's more detailed and assesses correctly

Big "yes" to "increased focus on helping BEFORE court" - the Dept has to GET TO KNOW the family and the community structure: there are differences in metro + rural + remote.

It hurts...

Child Safety really needs to look at the way they deal with each and individual case and look at what long term child Safety impacts on the children and their mental health and well being of each child again individually

I'd like for the damage that child protection does to children be acknowledged

CS blamed us for being bad parents. CS saw our daughter as a naughty child. CS didn't listen to the parents. Everybody made judgement. Our daughter was [then] diagnosed with ASD and other disabilities.

CPL Project Team

## **Micah Projects' Submission to the Queensland Child Protection Litigation Model**

Thank you for the opportunity to provide the insights of Micah Projects and the Family Inclusion Network (FIN) on the Queensland Child Protection Litigation Model (the Model).

This submission to the Model is informed by FIN as well as the practice experience of Micah Projects and its staff who support vulnerable people that are often in contact with the child protection system. Our response is based on our and the participants' experiences, it is not based in legal theory but the practice on-the-ground that impacts the people who it is designed to serve.

Micah Projects is a leader in community services with 29 years' experience providing advocacy and support to some of the most vulnerable groups across Brisbane and Queensland. Micah Projects established FIN in 2007 as a network of parents and their allies working to improve the child protection and family support system.

In 2011, FIN delivered the *Working Partnership with Parents Report 2010-11* which raised many of the same issues now being consulted upon for the Model. This included a lack of support, lack of understanding of the process/system they were being drawn into (including lack of any written information provision or details of rights for review), no involvement in planning of family supports, and no consultation on decisions made about their child. Common practice suggestions made included more transparency, improved partnership and additional assistance to understand the system and support their children.

Throughout May 2024 we hosted focus groups in Inala and Townsville, two state-wide zooms and released an online survey. A total of 46 parents provided us with their insights and views on the child protection litigation model.

The common themes and key points made throughout these consultations was that there is **massive power imbalance between the system and the parent, a focus on 'winning' not on the best outcome for the child and family, and parents need legal representation (not just advice)**. The attached responses to your key questions summarise the range of feedback we have received from parents (see [Attachment 1](#)).

The many **additional layers of professionals have created confusion and intimidation for parents, and appear to have added considerable time to a child's time in care** – often with no perceivable benefit for the child, family or child safety.

Our discussions with parents and our experience with the processes, show that the model litigation principles are not always followed. If the litigation system was to adhere to these principles, there would be fairer and quicker outcomes for families and children. Specifically, the Director of Child Protection Litigation Director's Guidelines and Child Protection Benchbook 2023 state:

*"Model litigant principles state that fairness will be achieved when litigation is conducted promptly, efficiently, consistently and proportionately and in a manner that does not take advantage of another party's limited financial or other means."*

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### Micah Projects

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..... We are committed to providing services and opportunities  
..... in the community to create justice and respond to injustice.  
..... We work collaboratively and respectfully with Indigenous  
..... communities and agencies. Micah Projects endorses the  
..... United Nations Universal Declaration of Human Rights.  
.....

Funded by  
  
Queensland  
Government

We recommend that the system strives to attain its aspirations for a strengths-based approach. We see parents that are ‘willing and able’ but the system is so complex and caught up in its own processes that cases head towards litigation without consideration of the parent’s ability and willingness. In addition, the **complexity of the current litigation process means that it is no longer about the parent’s ability and willingness**, it is instead about gaining evidence, including opinion, to ensure the Department ‘wins’. **At its heart, the litigation process is about properly and consistently following a process to find the best outcome for the child and their family** – not for a particular party to ‘win’. This is clear in the Director’s Guidelines and Benchbook, which state:

*“Child protection proceedings are unique and should not be conducted in a manner that is overly adversarial. Similarly, court outcomes should not be thought of in terms of ‘winning’ or ‘losing’ the case. Instead, the DCPL’s overarching obligation is to assist the court to make a fully informed decision in accordance with the provisions of the Act and the safety, wellbeing and best interests of the child, both through childhood and for the rest of the child’s life.”*

FIN and Micah Projects would recommend that the Model reflects what parents with experience of the system have been telling us: **Guidance for parents** and **Children at the heart**. We must focus on what are the best outcomes for families and their children, and ultimately reduce the number of children removed. As evidenced by research from the University of New South Wales, being in out of home care is a key social determinant of justice (i.e. increases a person's chance of ending up in prison) and should be avoided wherever possible.

To assist with implementing the improved Model, Micah Projects would like to make the following offers to Government:

1. Participating and contributing to a workshop with all key stakeholders, including parents with lived experience of the system to design proposed changes to the Model.
2. Hosting a trial of a combined social-legal support service that represents parents and supports their broader social needs focused on process and enabling parents to maintain their rights in the litigation process. Potentially, a second trial could also be hosted by a First Nations organisation. Further detail and costings are at [Attachment 2](#).

A summary of recommendations made throughout this paper is at [Attachment 3](#).

A full report on parents’ views gathered during our recent consultations will be prepared and provided to you by 21 June 2024.

Micah Projects would welcome further discussions with the project team about our submission and our above offers.

Yours sincerely

Karyn Walsh  
Chief Executive Officer  
Micah Projects

## Attachment 1: Detailed Response to Issues

### 1. How can we ensure the CPL model properly supports children, and (where appropriate) enables their views and voices to be heard and understood by all stakeholders?

*“The process is about the children but the focus is not on the children.” (parent)*

Children are best supported when the family is well supported. Children’s voices must be heard at all times, not “where appropriate” – it is always appropriate to enable their views and voices to be heard.

FIN is aware of parents regularly stating that their children’s views and wishes have not been sought, and/or have been disregarded.

To ensure the Model properly supports children, they need to be engaged and supported to provide their views and voices from the earliest stage of the child protection process – well before the litigation process starts.

*No bonding time with infants. A young parent with a disability spoke of having their newborn infant removed before they could bond with them or even provide a first feed. It is a child’s right to bond with their parent.*

#### **All stakeholders, including child safety officers, need to be supported to understand the views of children and young people.**

There is inconsistency in the appointment of lawyers to represent children. Resources need to be made available to **enable all children and all families to be legally represented**. Parents spoke to the lack of accountability for child safety officers in Children’s Court. It seems the child’s/youth’s safety and wellbeing has become secondary to the court process. One parent stated:

*...risks to children [are] being ignored once matters have reached court.*

### 2. How do we ensure that all aspects of the CPL model are culturally safe and responsive, both for Aboriginal and Torres Strait Islander peoples and people from culturally and linguistically diverse backgrounds?

While FIN is a mainstream service, some participants are from First Nations or CALD communities. Fundamental barriers include:

- inflexible definition of family which does not consider those family members beyond the parents (many grandparents, aunts and uncles provide caring roles in both First Nations and CALD communities)

*A First Nations grandparent spoke of being told “You’re the grandparent, not the biological parent”. In his view, he has a direct biological link to this grandchild as he comes from his bloodline.*

*Before taking drastic measures, Child Safety needs to look at the broader picture and look at the family unity itself and ways to eliminate children being taken. Address issues at the family level first, and at the community level (it takes a community to build a family). Look at the structures that each individual community can bring together to strengthen their children being within that family unity. (parent)*

- access to courts and related supports for families in remote, rural and regional communities. This is an issue for accessing appropriately qualified supports and lawyers, receiving timely and complete information and to visit children.

*Children removed from Lockhart River get put on a plane to Cairns. It’s an 11-12 hour drive to Cairns for their parents. (parent)*

### 3. *How can the CPL model elevate the voice of Aboriginal and Torres Strait Islander children and families and incorporate self-determination?*

While FIN is a mainstream service, we have had First Nations participants make positive comments about the use of the Delegated Authority.

*“Everyone should get support [from the Delegated Authority], these workers cared about our progress and made us feel like family.”*

The experiences of a First Nations family who spoke with FIN showed the stark contrast between working directly with Child Safety and via the Delegated Authority. When working directly with Child Safety they were not updated on progress, told they did not need to attend court or that decisions had already been made. The parents indicated they always complied with these instructions (such as not going to court) as they did not want to be penalised and have their visits reduced.

### 4. *How do we ensure that the CPL model is sufficiently accessible, adaptable and flexible to support the diverse and unique needs of different sections of the community, regardless of disability, culture, and language (including English language literacy)?*

*Parents consider that the system treats all parents the same despite them having diverse needs.*

Accessibility in litigation could be increased by having an accessible end-to-end system where families and children are supported from their first interaction with the system. **Supports and all parts of the system, including the litigation process, must be person-centred and trauma-informed.**

*In the affidavits why [am I] labelled an unfit neglect[ful] parent for being a woman with a disability? (parent).*

Throughout FIN’s history of working with parents we have not experienced a situation where a legal representative has explained circumstances to a parent with a disability. Organisations such as QDN may have the ability to support this process, but the expertise of supporting people with a disability should be available within the system.

*Judges and lawyers and attorneys and law people and child protection they need to do disability training.*

Parents have called for **mandatory legal representation** in all circumstances. There are instances where voluntary agreements have ended up in the court process which places the parent behind in their understanding and ability to respond – and early legal representation would likely have prevented escalation to the courts.

In 2023, FIN parent members and the department jointly released the *Charter of Rights for parents involved with the child protection system in Queensland*. **The Charter needs to fully implemented** to form the basis of the litigation process so that the Model can be accessible, adaptable and flexible.

While FIN defers to suggestions from other stakeholders, it is probable that the current system is not accessible for people with a disability or from culturally or linguistically diverse backgrounds – because it is **not accessible or easily understood for any parent**. There may need to be the inclusion of easy English affidavits, Auslan, and interpreters otherwise parents with disability, cultural or language issues cannot possibly have a fair chance in the child protection litigation system.

5. *How can we ensure that all persons in the jurisdiction that deal with child protection matters (e.g., judges, lawyers, court staff) have specialised knowledge and expertise of child protection principles, practice and legislation appropriate to their role?*

FIN defers to other stakeholders to suggest how the profession can skill and develop their workforce. One key improvement could be contracting FIN parent members to provide training modules and/or sessions with the legal workforce, or to participate in continual improvement processes.

Parents are confused by the court process and perplexed by the lack of adherence to due process. Some have mentioned that even the Magistrates' recommendations do not seem to carry weight with child safety.

*"We had a judge who said it was not good enough and I don't want history repeating itself. She needs to go home and it's not a good environment for her to be [in a residential placement]. Ohh and she needs to be seeing her parents a lot more than she is".(Parent)*

6. *How do we enable families to have early access to legal representation to ensure they understand their rights, understand what is happening throughout the litigation process, and are fully informed to participate in proceedings?*

*Parents need to be provided with information at the first meeting. This information should include the Charter of Rights and an application for Legal Aid.*

Parents are firmly of the view that **they need to be supported from day one** – needs should be assessed well before the formal litigation process commences. As mentioned in the response to Question 1, supports need to commence at the first interaction with the child protection system – every discussion and decision is recorded by the child safety officer and can be used in the litigation process. Early and comprehensive supports give the system the best chance of preventing the removal of the child.

Parents have told us that they have been unable to access legal representation for myriad reasons, including the provider being "conflicted out" or not wanting to work in "black on black" cases; parents not meeting the merit test or means test (even though they cannot afford private legal representation).

If additional resources cannot be allocated to publicly available and appropriate legal services, it is clear that the system is too legalistic and needs to change, or litigation is not being properly considered as the last resort. The **system should be focusing on mediation and supporting families** to best care for their children – as recommended by the Child Protection Commission of Inquiry, we need a strengths-based approach.

Drawing on the evidence and information we have gathered from parents and participants, Micah Projects recommends that the department invests in a **trial of trauma-informed community legal services** that focus on child protection and include parents with lived experience parent workers and social workers that are allocated immediately to parents. These workers will then follow the parent for the entirety of the intervention.

7. *How do we maximise opportunities within the CPL model for early collaborative decision making between parents and Child Safety in the first instance, and the utilisation of alternative dispute mechanisms that (where appropriate) keep children and families out of court proceedings?*

Early collaboration between parents and child safety in the first instance requires a simpler process.

Consistent with best practice case work and case management, **one consistent person (or team) is needed for a family**. Everyone on the team gets to know the parent, child and family and sees them interact. The person/team communicates regularly and transparently, and consistently adheres to the Charter of Rights.

*Parents, and extended family, need access to services and supports and opportunities to address issues prior to going to court.*

Support for parents, such as through the funding of Parent Advocates with lived experience, and helping them understand and be actively involved in the processes throughout the end-to-end system will ensure parents are better prepared for the litigation process, and gives the department a better chance of preventing escalation of cases to litigation.

There needs to be opportunity for early intervention, family discussions, mediation and supports for parents to keep things out of the court system – the court system is a traumatic experience for parents, families and children, and even for child safety officers.

*“Why can’t the family all sit in a room to discuss things so that issues can be resolved without the need to go to court?” (parent)*

Parents are concerned that child safety is quick to start litigation when early interventions or supports would have been a better approach. Investigations are not being done properly leaving parents to deal with the repercussions of children being taken into care for no reason (if the court decides there is no case to answer). There is an apparent lack of collaboration and transparency within child safety. Parents who were involved in other systems spoke about this lack of collaboration.

*“Child safety failed to tell me that the order had finished four months previously”. (Parent)*

Additional alternative dispute mechanisms may be a positive step forward. Or, potentially, the existing Child Protection Manual could guide ‘early collaboration in decision making between parents and Child Safety in the first instance’. However, FIN consistently hears from parents that the Practice Manual is not fully adhered to in their dealings with the department.

8. *How do we ensure the CPL model prioritises the timely resolution of matters for children and families; ensuring decisions made consider, and account for, key milestones in a child’s life, and (if appropriate) seek reunification at the earliest point?*

Parents strongly support improvement in the timeliness of resolutions. “It was meant to be six weeks – it took 2 years”. Our experience is that the parents are ready to meet reasonable and documented timelines but the department itself is less able to meet these timelines.

Parents consider they are required to meet higher standards.

*“Parents are required to meet strict time limits and requirements, but child safety, foster carers and lawyers seem to not be held to the same standards”.*

*“There should be more transparent parenting goal plans with clearly stated goals and benefits. A roadmap for improvement. Parents need goals and things they can look forward to.” (parent)*

Consistent with the *Child Protection Act 1999*, **reunification must be the focus of the child protection system**. Families have told us that improved, intentional, transparent and timely reunification work must be prioritised, and support needs to continue after the child returns home to prevent problems in the future. However, the family must have a say in the support that is provided after reunification – this may include therapeutic supports to enable healing and recovery from the trauma experienced due to removal.

A parent noted that while they are no longer in the child protection system and their kids are now home, the family is still dealing with the repercussions of what happened at the time.

*“Ongoing counselling and therapy that the children need that the parent needs to resource and fund without assistance. Very hard to find these resources (psychologists/paediatricians). Families need to be remembered and supported.”*

Additionally, timely resolution may be assisted if the system better followed the Director of Child Protection Litigation Director’s Guidelines to consider *“whether the child’s protection and care needs could be met by an order on less intrusive terms than the order Child Safety considers appropriate and desirable for the child’s protection.”*

Key milestones in a child’s life are important considerations in determining supports and decisions about removal and reunification. However, parents’ experience is that these are not made a priority by child safety officers, and parents are often told they are not able to join in with celebrations such as birthdays.

*“So they were going for a court order for my husband not to see the kids for 12 months”. (parent)*

9. *How do we ensure that the CPL system is simple to navigate and understand for all participants? That is, how do we ensure processes are transparent and flexible to the evolving needs of children and their families, ensure families are linked to supports early in the process, and all stakeholders are aware of their roles and responsibilities?*

**The system is too complex if people need to be supported to navigate it.** A key focus must be simplification of the system.

*Parents have significant concerns that the system lacks accountability and transparency. Child safety are a law unto their own.*

The addition of so many layers to the processes and the use of litigation has increased the power imbalance between families and the system. We know that child safety officers want to do good work and support the best interests of children, but they have told parents that they are overloaded – this could be due to being overwhelmed by processes and the administrative load is prioritised above casework with families.

A parent spoke of feeling pressured/bullied into signing a document otherwise their child would be put into foster care.

*“If you think your child will be placed in foster care you will sign anything” (parent)*

As mentioned above, support and engagement must start as early as possible, well before the discussion of litigation. Families need to be supported by people with lived experience (via funded Parent Advocates) and processes and the system should more closely follow the Charter of Rights.

Parents also highlighted concerns regarding psychological and other assessments which hold a lot of weight in the court process. There were many concerns that there is a bias against parents.

*A parent argued that Child Safety is using the same psychologists to get the same outcome. They spoke of a psychologist who has done over 600 psychological assessments over 16 years for Child Safety and has never found in a parent's favour. "It's cash for comment. It's borderline criminal"*

The **use of independent assessors needs to be more closely scrutinised** with consideration of the appointment of a preferred supplier panel of providers who are subject to regular standard quality reviews that includes feedback from participants (parents, departments, courts and other stakeholders). The use of independent assessments should only be used where there is not enough evidence already gathered showing that parents/families are willing and able to safely care for their children.

*10. What checks and balances, and/or oversight mechanisms, should be included in the CPL model to ensure that it reflects best practice and ensure that statutory decisions are made in, and centred on, the best interests of the child?*

There will be less need for checks and balances if the system was simpler and more family and child friendly.

During our consultations, parents talk about the evidence-gathering focus of the system. They are curious about the 'independent' workers contracted who write many reports about the family and the children (e.g. psychological report, parenting capacity report) – parents give harrowing accounts of these processes, as well as of the impact of the many reports that conflict with each other. A **review of the purpose of these independent reports** is recommended – and importantly this would include a framework for probity, procurement and quality.

To best assess the willingness and ability of parents we have had many suggestions that assessments should be undertaken in the home with a focus on how the family can make practical and workable improvements to enable the child to stay with the family.

**Complaints are one of the most contentious areas for parents.**

*"The complaints process pathways are extremely long and do not provide the immediate help that parents in crisis need. I was told I had to wait a further six weeks (after waiting 8 weeks during the CP process) for the complaints process of the Director-General's office. If I went to the Human Rights Commission it would be between six to twelve months, otherwise the Ombudsman would be six months minimum. This is why parents feel so helpless and abandoned, losing trust in the government and the system that is meant to be working in the best interest for children and families." (parent)*

There are currently five Queensland government entities with a Child Safety appeals or complaints role, depending on the timeframe and issue. FIN strongly recommends simplified processes, and the **establishment of an independent complaints process**.

Lastly, in order to ensure the performance of agencies involved in the litigation process, we would recommend the **establishment of a register of civil litigation for Queensland** (both government and non-government institutions). The register would only identify the institution (not the victim or individual perpetrators) and would show where litigation has resulted in payments for:

- victims of abuse within an institution (historical and current)
- people who have been victims from poor or incorrect decisions made due to institutions not conducting their roles in line with legislation, guidelines and policies.

## Attachment 2: Proposed Trial of Community Based Social-Legal Support Service

See separate document

## Attachment 3: Summary of Recommendations

Throughout our response, we have made a number of recommendations. These include:

1. Full commitment to the Child Protection Act's purpose and principles that reunification must be the focus of the child protection system, and to consider the least intrusive arrangement to maintain the child's protection.
2. Family and child supports and all parts of the system, including the litigation process, are to be person-centred and trauma-informed.
3. Full implementation of the *Charter of Rights for parents involved with the child protection system in Queensland*.
4. Work towards mandatory early legal and other supports, including full representation of all families involved with the child protection system and improved information sharing. Supports and representation must be provided by a consistent person or team throughout the process.
5. Support for child safety workers, legal practitioners and other stakeholders on how to understand and best respond to the views of children and young people.
6. Improved access to courts and related supports for families in regional, rural and remote communities.
7. Establishment of an independent complaints process and simplified processes.
8. Establishment of a register of civil litigation.
9. Review the use of independent assessors (who write social assessments, psychological assessments, parenting capacity assessments), and establish a 'preferred supplier' panel of providers who are subject to regular standard quality reviews
10. Implement a trial of a combined social-legal support service that represents and supports parents.
11. Expansion of the trial of child protection lived experience Parent Advocates to support families in various parts of the system and Model.
12. CPL Project to facilitate a workshop to design proposed changes to the Model arising from this review.

## Legal Representation for Families in the Queensland Child Protection System

A social-legal community service representing parents and children and providing key social supports

Micah Projects has 29 years' experience providing advocacy and support to vulnerable groups and is considered one of Queensland's leading providers of specialist homelessness, domestic and family violence (DFV) and care leaver support programs. As pioneers of assertive outreach and service integration, Micah Projects is known for recognising and innovatively addressing emerging issues for vulnerable people and the systems that are designed to support them.

### Issues for Parents and Families

When parents and families are first exposed to the child protection system they are in the middle of a period of significant trauma and do not have any concept of the system they are entering. Most parents are living in poverty, and have other issues in their lives, such as violence, poor health and mental ill health and substance misuse, which is limiting their ability to seek help and fully participate and contribute to the child protection system processes and requirements.

Parents and families do not know if they can or should seek legal representation and, where they do seek representation, there is a lack of affordable and specifically-skilled lawyers available. Often the legal support available to parents is legal advice, not representation.

The system and agencies managing the system do not educate parents about the processes of the system and what they need to do to meet their obligations and demonstrate their ability to care for and protect their children. Parents also regularly find themselves excluded from decisions about their children. There is also no support available to parents and families with the non-system issues they are facing (e.g. health, mental health, family support, alcohol and drug use).

## Issues for Children

The children entering the system are also experiencing significant trauma and confusion. We know that children who are removed from their parents are more likely to enter the justice system (both youth and adult) and face other long-term adversity, such as:

- » Poor physical health and physical disorders.
- » Psychological disorders.
- » Behavioural, emotional, cognitive and learning difficulties.
- » Reduced educational attainment and/or academic achievement.
- » Social isolation and loss of sense of place.

## Supporting parents, families and children in the system – Evidence

In some jurisdictions, programs have been piloted or introduced to create and improve a coordinated response. Access to multi-disciplinary teams (lawyers and social workers, and in some cases a lived experience parent advocate) can successfully improve the experience for parents, and improve outcomes for children and parents for decision-making, safety and wellbeing.

In New York, parents are entitled to legal representation in all child welfare cases. In other jurisdictions, parents who have been involved in the child welfare system are employed as advocates to work alongside lawyers in representing parents who are facing allegations of child abuse or neglect.

Lived experience parents provide valuable insights into the child welfare system and can help lawyers and other professionals better understand the needs and perspectives of parents. This can lead to better outcomes for families and can help reduce the number of children removed.

## The Proposed Program – Social-Legal Community Support

Parents and families in the system need to be supported and represented from their first engagement with the system.

Micah Projects proposes to trial a combined social-legal community support service in Brisbane that will integrate services for parents, families and their children. Potentially a First Nations organisation would run a second trial focused on First Nations families. The community support service would consist of child safety specialist lawyers, qualified social workers and parent advocates with lived experience of the child protection system.

**Representation** from qualified legal professionals with experience and education in the child protection system, focused on ensuring the parent is:

- briefed on the end-to-end process and how they can best be engaged
- clear about their obligations and expectations in the processes
- involved in all discussions about planning and care decisions
- properly represented by the legal professional in all dealings with the department and courts.

**Supports** from qualified social workers, in conjunction with people with lived experience, will focus on the presenting and emerging issues for parents that may influence their ability to care for and protect their children. This could include general health, mental health and alcohol and other drugs, housing and homelessness, and financial advocacy.

The support workers will work closely with the parent/family, and in regular collaboration with the lawyer, to understand their situation and determine the supports and services they will require to improve their ability to protect and care for their children, and fully engage with the child protection system.

In close collaboration with the parent, the support worker will organise and support access to trauma-informed, person-centric services which will be provided through existing internal services (where available) and external partner services. For Micah Projects, we can provide parents, families and their children with access to our housing and homelessness, DFV, inclusive health and family support services.

The team will operate from a specialised hub that will provide a safe and nurturing environment and will enable external services to visit and provide their supports if needed.

### **Staffing Model**

The Hub would employ a full-time coordinator to lead a portfolio of new parent- and family-focused services, supervise a multi-disciplinary team of practitioners and establish and maintain partnerships with services to provide supports to parents, families and children.

The team would consist of two full-time qualified lawyers and two full-time social workers with support from a full-time program assistant. The lawyers will be salaried employees of the community service, not attached to an existing legal service, so they are fully focused on child protection matters.

To better support families engaging with the child protection system, two part-time Lived Experience Peer Worker (Parent Advocate) roles would be established.

Staff would also access motor vehicles, brokerage and other resources as required to provide tailored support. A full budget is below.

### **Evaluation**

An evaluation framework will be developed in collaboration with an appropriate academic institution to evaluate the impact of the initiative on children, their parents, the family unit and the child protection systems.

Feedback will be sought from all participants throughout the trial and at different times in the litigation and wider processes.

### **Outcomes**

The proposed trials will contribute directly to the objectives of the Department of Child Safety, Seniors and Disability Services' Strategic Plan 2023-27: *"To enable families to safely care for their children and young people"*.

Partnering with a First Nations organisation to trial a First Nations specific service would also contribute to the objective of “Reduce the disproportionate representation of Aboriginal and Torres Strait Islander children in the child protection system”.

The trial will aim to achieve the following outcomes:

- improve outcomes for parent and child through informed decision-making, and trauma-informed support
- improve fairness by ensuring parents have access to representation from early stages of the process to inform decision-making
- improved the balance of power in protecting the rights of parents and the rights of the child
- improve relationships and interactions for workers (if parents understand the process and know what is expected of them, then relationships and interactions between workers and parents will be smoother)
- enhance child protection expertise within the legal community
- increase opportunities for parent advocates to play a role in the system
- improved ability of the court to make a fully informed decision (in accordance with the provisions of the CP Act and the safety, wellbeing and best interests of the child).

## Proposed Budget

The budget will include a full academic evaluation the establishment of a new premises and brokerage to provide practical assistance to parents and purchase services including assessment reports and other advice. Total annual cost is estimated at \$1.525M p.a.

Expenditure Item	Annual Expenditure
Staff plus on-costs <ul style="list-style-type: none"> <li>• 1 x SCHADS 8</li> <li>• 2 x Lawyers</li> <li>• 2 x SCHADS 6 Support Workers</li> <li>• 2 x 0.5 SCHADS 4 Lived Experience Worker</li> <li>• 2 x 0.8 Program Administrator</li> </ul>	\$995,000
Management, Administration, ICT and Training	\$276,000
Office Rent (standalone premises)	\$70,000
Motor Vehicles (x 3)	\$54,000
Brokerage	\$50,000
Evaluation	\$80,000
<b>TOTAL</b>	<b>\$1,525,000</b>

\* Establishment costs of \$40,000 also required in first year.