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SPRING 2022 SYMPOSIUM TRANSCRIPT
REFORMING AND RESTRUCTURING CHILD
WELFARE LAW IN NEW JERSEY AND
ABROAD

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FORWARD

On February 10, 2022, the *Rutgers Journal of Law and Public Policy* hosted the Reforming and Restructuring Child Welfare Law in New Jersey and Abroad Symposium. Speakers included moderator Randi Mandelbaum, Distinguished Clinical Professor of Law at Rutgers Law School and Annamay Sheppard Scholar; Sydney Groll, Independence Foundation Public Interest Fellow at the Support Center for Child Advocates in Philadelphia; Deputy Commissioner Katherine Stoehr, from the New Jersey Department of Children and Families; Sylvia Thomas, Chief Counsel of the Family Stability and Preservation Project at Legal Services of New Jersey; and Alexandra and Iesha, two of Legal Services of New Jersey's parent allies. The following is a transcript of the Symposium.

PAIGE KIDWELL, EDITOR-IN-CHIEF

Good evening everyone, my name is Paige Kidwell and I am the Editor-in-Chief of the *Rutgers Journal of Law and Public Policy*. It is my distinct honor to welcome you all to our annual symposium. Tonight's program, "Reforming and Restructuring Child Welfare Law in New Jersey and Abroad", will discuss some of the important efforts taking place specifically in New Jersey to reform the child welfare system. Before we begin, I would be remiss if I did not thank those who made tonight's event possible. I will take a moment to do so now and will try to be brief so we can get into our discussion.

I would first like to thank our Submissions and Symposium Editor, Sam Romeo, who took the reins in planning this event. Your hard work in coordinating tonight's discussion is so very appreciated. To Professor Mandelbaum, our moderator for tonight's event: thank you so very much. Without your assistance in connecting us with tonight's panelists and guiding us through this process, this event would not be possible; so we very much appreciate you. I would also like to thank Carol Shaner, who assisted us in coordinating with the Rutgers Institute of Professional Education and in registering our attendees. Carol, you have been an immense help and we appreciate you greatly. Thank you to Sydney Groll and Kelly Monahan, whose student-written notes

actually inspired the idea for tonight's discussion. And I would also like to take a moment to thank the wonderful attorneys at the Office of Parental Representation Southern Region, whose advocacy inspired my personal passion for learning more about this work. To all of tonight's attendees, we thank you so much for coming to engage in this discussion.

And finally, I would like to thank tonight's distinguished panel of speakers, not only for the important work they are doing to protect children and support families, but also for coming here to share that work with us. We appreciate you engaging in this conversation and allowing us to all learn more about the work that you are doing. And, obviously, tonight's event would not be possible without you all. With that, I will turn it over to Sam Romeo to discuss some CLE housekeeping matters and introduce tonight's panel of speakers.

SAM ROMEO, SUBMISSIONS AND SYMPOSIUM EDITOR

Thank you Paige, and thank you all for coming. As Paige said, I am Sam Romeo, I am the Submissions and Symposium Editor at Rutgers JLPP, and I just want to quickly echo Paige's thanks and say that I am thrilled that we have such an esteemed panel for you all tonight. I have learned so much about child welfare law just by organizing this symposium, so I know we are all going to learn a ton of valuable information from our speakers tonight. And I am glad we could all get together, albeit via Zoom.

[CLE INSTRUCTIONS OMITTED]

Without further ado, I will briefly introduce our panelists. Our first speaker will be Sydney Groll. Sydney graduated from Rutgers Law last year and is now an Independence Foundation Public Interest Fellow at the Support Center for Child Advocates in Philadelphia.¹ Her presentation will focus on a note she wrote during her time as a Staff

¹ *Home*, SUPPORT CTR. FOR CHILD ADVOCS., <https://sccalaw.org/> (last visited May 19, 2022).

Editor with our journal. That note will be published in our journal's spring issue, so be on the lookout for that. It is a fantastic note about child welfare law.

Following Sydney, we have Katherine Stoehr, Deputy Commissioner for Operations at the New Jersey Department of Children and Families.² Her career in child welfare has been all over the map, and she will discuss what DCF is doing as an agency to make progress toward a better future for the child welfare system.

Then we have Sylvia Thomas, also a Rutgers Law graduate, who is now Chief Counsel of the Family Stability and Preservation Project at Legal Services of New Jersey. She will give us the perspective from Legal Services, and she has also brought along two parent allies³ with her who will discuss how they use their personal experiences to help clients navigate the maze of the child welfare system.

And last, but definitely not least, we have Distinguished Clinical Professor of Law here at Rutgers, Professor Randi Mandelbaum.⁴ If you are a Rutgers student joining us, you know Professor Mandelbaum needs no introduction. She is the founding director of the Rutgers Child Advocacy Clinic⁵ and creator of the Aging Out Project—among many, many other things.

All of our panelists have devoted their entire careers to working with children and families, so if I took the time to recite their resumes, we would be here all night. So again, thank you all for coming. I do

² *DCF Executive Management*, N.J. DEP'T OF CHILD. & FAMS., <https://www.nj.gov/dcf/about/executive/#11> (last visited May 19, 2022).

³ See *Parent Ally Program Supports Prevention and Prepetition Efforts*, Legal Servs. N.J.: Poverty in Focus, <https://www.lsnj.org/PovertyInFocus.aspx?v=Iesha> (last visited May 19, 2022).

⁴ *Randi Mandelbaum*, RUTGERS: LAW, <https://law.rutgers.edu/directory/view/randim> (last visited May 19, 2022).

⁵ *Child and Family Advocacy Clinic*, RUTGERS: LAW, <https://law.rutgers.edu/child-and-family-advocacy-clinic> (last visited May 19, 2022).

not want to delay any further, so I will hand it off to Professor Mandelbaum, who will be moderating our program tonight.

PROFESSOR RANDI MANDELBAUM

I am just so humbled and honored to be here today moderating and presenting on this panel with such distinguished guests who have so much to share. I will, at the end of each person's presentation, ask a question or two. So if you have questions as folks are talking, please put them either in the chat or the Q&A, and I will try to pose them to the presenter after their talk. We are trying to keep around 15 minutes at the end to have more Q&A and discussion. And with that, it is my pleasure to turn it over to Sydney Groll.

SYDNEY GROLL

Thank you, Professor Mandelbaum. Good evening, everybody. Thank you all for hosting this—it is really exciting to be with everyone. And I am so honored to be on this panel with the other panelists, so I am looking forward to learning this evening as well.

I am going to speak this evening about the journal note that I worked on last year. It is going to be published this year. The title of the note is: “Communities as Caretakers: The Indian Child Welfare Act as an Anti-Racist Framework for all Child Welfare Cases.”

Because we are trying to keep to a time limit tonight, I am not going to give as many in-depth citations as I normally would, but please look out for my journal note. If there is something that strikes you during this, I promise you, it will be cited in there. So, I am going to do my best to give a high overview of everything that I cover in the note. Before I do that, I do want to start with a quote that I actually started my journal article with, just to center this conversation for myself and explain why I focused on this particular topic.

It is a quote by Ibram X. Kendi on how to be an anti-racist. The quote is, “Americans have long been trained to see the deficiencies of people, rather than policy. It's a pretty easy mistake to make. People are in our faces. Policies are distant. We are particularly poor at seeing the policies lurking behind the struggles of people.”

I wanted to start with that just to preface the idea of, when we are talking about the Indian Child Welfare Act⁶ and other things within child welfare, it is really easy in this field to look at individual people, individual children, and individual families and make a lot of judgments and assumptions. And so, my hope with the note that I was working on is that we can really take a critical look at the foundation for the child welfare system in our country, how we got to where we are at, and what we can do or think about doing as we move forward in the future to rectify some of those wrongs that have been done in the creation of the system. As I go through this presentation, I just want to note the reference to the Indian Child Welfare Act.

In that Act, due to the time period in which was written, they use the terminology “Indian.” When we refer to this, or when I refer to this, I am going to use the term “Indigenous,” outside of talking about Indian Child Welfare Act. I just want to reference for everybody that the language and history behind labeling is really complex and painful. I recognize that the term “Indigenous” that I am using today, may not feel right for all people that I am referring to. And so I want to make that acknowledgement as I move forward. I recognize that, and I am open to feedback if other people feel something about that throughout my presentation.

So, to lay a little bit of foundation, our child welfare system as it currently exists, has a massive problem of racism. It is a part of the foundation and part of what has been established in terms of how it operates today. Going all way back to slavery and colonization in our country, a lot of those origins are actually how we fell into the child welfare system we have today. So, particularly for Black children and families—when we talk about slavery and how children were sold and separated from families—following the time period in which that was happening, we had a lot of families that had been separated. And the systems that were created, the orphanages that were created at that time, often left Black children out.

⁶ Indian Child Welfare Act of 1978, Pub. L. No. 95-608, 92 Stat. 3069.

And so it was a really interesting divide that was created in our country where the system started to develop—our formal child welfare system. But it was a very White system that put resources towards White communities, White children, and White families—and left a lot of Black children out of the picture. And that disproportionality of experience within the system is really continued to be reflected today.

A lot of studies continue to report that Black families and children are more likely to be reported; they are more likely to have findings of maltreatment when an investigation is done; and they are more likely to be placed outside of the home instead of receiving in-home services. Additionally, regarding the overall representation within our child welfare system, there was a study done back in 2019 that recorded our overall child population for Black children was 14%, but the representation of Black children within the foster care system was 23%. So, what we see is that there is just a massive disproportionality in terms of how representation in the system works. And when we compare that with White children, we are looking at an overall child population about 50% of kids being White, but in foster care, only about 44%. So, there is actually a smaller representation of White children in the system.

And I want to be really clear when I talk about that. It is not because there is more abuse happening in particular communities as opposed to others. Studies have shown that doctors, for example, are more likely to report broken bones when a Black child comes in than when a White child comes in. And that doctors are also approximately ten times more likely to report incidences of drug abuse by a Black mother than by a White mother. And so we see these incidences in studies that show us that it really is an issue of disproportionality and how we are treating groups of children and families when they encounter the child welfare system.

One group in particular that has been really abused by our child welfare system is Indigenous families and children. Dating back to colonialization, following that we had a movement from relocation towards assimilation. We had Indian boarding schools that were opened up. And what those did in 1879 is they forcibly removed Indigenous

children from their tribes and communities and put them into these boarding schools where the goal was to basically rid them of their cultural identity, and to have them learn Christianity.

As was quoted by one of the founders of these schools in 1982, Richard Pratt, it was to “kill the Indian in him and save the man.” So, the philosophy behind these was to really do a complete assimilation of Indigenous culture into White culture. Following this, we also had the Indian Adoption Project in 1958 to 1967⁷, which was really a time in which there was a promotion of adoption of Indigenous children by White families. So again, another effort by our government, by our system, for assimilation. And these really harmful practices and part of our history of our child welfare system are what led to a series of congressional hearings in 1974 and 1977, in which our government had to really confront this horrific history of what had been done to Indigenous families and communities.

At the time that the government started to have these conversations, about 25% to 35% of all Indigenous children were being removed from their families. And about 85% of those children who were removed were being placed in White homes. And Congress really had a lot of debates about this from 1974 to 1977. The first round of legislation in this area was rejected, and if it was not for Indigenous tribes and advocates themselves, we never would have ended up with the Indian Child Welfare Act.

So, the Indian Child Welfare Act, which was enacted in 1978 was really our government's attempt at addressing this disproportionate representation of Indigenous children in the child welfare system and some of the harms that had been done. The congressional findings made in this Act are very clear about the abuses that had been happening.

Often, when I talk to people about racism in the child welfare system, I encourage them to read the actual congressional findings of

⁷ *Indian Adoption Project*, UPSTANDER PROJECT, <https://upstanderproject.org/learn/guides-and-resources/first-light/indian-adoption-project> (last visited May 19, 2022).

ICWA because it says very clearly that Indigenous children were taken from families, oftentimes unwarranted. And it calls out the fact that it was done by private agencies and by state agencies, who were unaffiliated with Indigenous tribes and communities. So, I think it is really this first step in our child welfare system of trying to acknowledge harm that had been done that had been part of our foundation. It is really clear that ICWA as a whole was crafted to address the specific cultural and social needs of Indigenous children and communities, and to center Indigenous tribes and communities in the entire thought process of when an Indigenous child comes into contact with child protective services.

ICWA is federal law, so it applies in all cases anytime a child comes in who identifies as Indigenous or could subscribe or belong to a tribe. And there are certain parts of ICWA that I looked at specifically in my note. Many parts of ICWA I think we can continue to examine and go into for days, because I think there is a lot of learning we have to do from it as policy in total. But there are four main parts that I looked at in terms of a framework for potential anti-racist legislation that could be implemented to support more children in our system, particularly to address the continued disproportionality and representation of Indigenous children and Black children within our system.

I want to preface that this is not a new concept; there have been drafts of ICWA for the Black community in multiple forms over the years and, currently, there is one before the legislatures in Minnesota. I am going to talk a little bit about that as I go through the different parts that I looked at, but I am going to focus in on four main parts that I looked at and want to consider expanding.

The first part is involvement of the child's specific community. The importance, as I mentioned, of ICWA is that there is this heightened emphasis on inclusion of Indigenous community throughout the entire child welfare process, especially in terms of placement. This is really the first time that the state agency was forced to work with local Indigenous tribes to create what are sometimes called "cooperative agreements." These agreements can include anything, such as when a tribe has to be notified or how a tribe has to be notified when an Indigenous child comes in; what financial arrangements look like

between the state and Indigenous tribes when a child that is part of their tribe comes into the system; also, mechanisms for identifying and locating placements. The entire placement structure under ICWA is to prioritize family and community within one child's tribe to prevent them from having the removal that, historically, had happened so many times.

And there is a lot of advocacy around ICWA. A lot of control on the training of state agencies is through the Bureau of Indian Affairs, which is under the U.S. Department of Interior.

So, there is an actual federal agency that looks at ICWA, that trains staff members and tribal social workers who can be a part of the ICWA process. And this is something that has been replicated in proposals, particularly for Black children and families.

As I mentioned before, the African American Family Preservation Act is currently before the Senate and House in Minnesota. It was proposed in February 2021, and they proposed having an African American Child Welfare Oversight Council. It is a very similar idea: how do we create a space where community can be centered in the decisions that are being made for children that identify with that particular community? Because what we know is that we cannot separate children and families from their racial and cultural identities. That is not the way for our system to operate in the best interest of both children and families. Because it is a part of who we are, it is a part of how we exist in this world and it is a part of safety to talk about our race identity and culture, and how we are cared for. And so, allowing for some sort of policy such as ICWA that would enable communities to become more involved and have more standing in cases involving children who identify within their own communities would be one way in which we can start to center the identity culture and race of those who are most impacted by the system.

Another aspect that I looked at from ICWA was the requirement for expert witnesses. Under ICWA, for placement and termination of parental rights to happen, there must be proof supported by testimony from a qualified expert witness. It is really interesting because these qualified expert witnesses cannot be state agency social workers, they have to have a really specific understanding of the social and cultural

needs and dynamics within a particular tribe and community. The qualified experts are supposed to really discuss whether the child's continued custody right parent or Indian custodian is likely to result in serious emotional or physical damage. And they do that through a cultural lens. So, the court has them come in and speak about how the particular tribe operates, what is normal for that tribe, and if the behavior that is being seen or is being reported is actually just a part of the court's lack of cultural competence around what that tribe or Indigenous community operates towards. And this is a huge effort to fight back against this assimilation that was happening in the formation of our child welfare system with Indigenous communities. And so having qualified expert witnesses is one way to start expanding cultural competence within our system.

It is interesting because there are some custody cases in the U.S. where this has already started to happen. There is a case, *Marriage of Gambla* in Illinois,⁸ where they actually allowed for a qualified expert witness to come and testify on behalf of a Black mother in her custody hearing against the White father because the other professionals who had spoken as experts in that case provided a lot of data that was skewed and biased and was stereotyping of the Black community and culture. So, they allowed for her qualified expert witness to come in and talk about how those are stereotypes and biases, and what that meant for the custody of the child and what was actually in the best interest of the child in that case.

Another area is higher evidentiary standards. Under ICWA, we have a requirement that before children can be placed it must be demonstrated by clearing and convincing evidence that multiple risk factors exist, and these must include risk factors beyond things that can just be fixed by social service intervention. You really have to demonstrate a causal relationship between what is happening in the home and severe harm being caused to a child. So, there are a lot more requirements before a child can be removed from a home. I will put a

⁸ In re *Marriage of Gambla*, 853 N.E.2d 847 (Ill. App. Ct. 2006).

caveat on this— many states themselves have adopted higher evidentiary standards, such as clear and convincing evidence, but this is federal legislation that is requiring that.

Particularly of note, termination of parental rights under ICWA requires the burden of beyond a reasonable doubt. That is the standard, which is the highest standard we can have. And so, it really takes into account having that high standard how termination of parental rights has been viewed as the civil death penalty in our society and in many places. It is a very severe and harsh action that is taken. And so having this high standard really ensures that it is treated as such. They make a really clear outline in the Act that poverty, isolation, age, single parenthood, housing constraints, substance abuse, and non-conforming behavior are not enough under the standard. So, it is really clear under ICWA that we should be looking for an incredibly high burden before terminating parental rights.

And finally, the last thing that I looked at was the “active effort” standard. Under federal law and most other states at this time, if it is not an Indigenous child, we are looking at a “reasonable effort” standard. The main difference between the “reasonable effort” and “active effort” standards is that reasonable efforts looks like referrals. Making referrals that a family can work towards reunification; making referrals so that children stay in homes. Active effort is often seen as actually following up on those referrals, making sure that families have access to obtain the referrals, that they know what services are available, understand what services are available; and if there are bigger barriers to achieving those, it is incumbent upon the state to actually overcome those barriers alongside the family.

Pushing for an active effort standard is actually something that, if anybody follows the upEND movement⁹, which is really a movement

⁹ *upEnd: All Children Deserve to Be with Their Families.*, CTR. FOR THE STUDY OF SOC. POL’Y, <https://cssp.org/our-work/project/upend/#:~:text=Thus%2C%20the%20work%20of%20the,and%20protected%20in%20their%20homes>. (last visited May 19, 2022).

for abolition of the child welfare system, active efforts is something that they have been pushing very hard for because it is putting the agency on the state to do more than just make referrals and then work towards potential termination of rights or continue to separate children from their families. Additionally, because ICWA is structured the way that it is, there is no workaround to the active efforts. You have to have active efforts—whereas under our current law, with reasonable efforts, there are certain ways to work around having to find reasonable efforts or prove reasonable efforts by the state.

So, I know that was pretty quick, and I covered a lot of things. But these are just some of the areas that I looked at. I think expanding some of these policies to all children within the system has the potential to be a step to work towards coming up with a unified approach of all states to be more accountable, more accountable to families, more accountable to rectifying the wrongs and how our system has developed, and to really develop what compliance would look like with something like ICWA. That is one of the trickier things that exists today, is that there really is no clear guideline as to who regulates compliance with ICWA. And so, expanding to all children would really force states to come up with a way to do that, similar to ASFA¹⁰ and other regulations that we have where there are financial burdens that really force the hand of state agencies to pay attention to what the policy is.

That is something to be worked towards with ICWA if we were to expand it further. But, I will say ICWA, in and of itself, needs to stay as it is in terms of Indigenous sovereignty in our country. So I am not proposing that we overhaul ICWA, but rather that we expand some of the policies that are within it.

¹⁰ Adoption and Safe Families Act, Pub. L. No. 105-89, 111 Stat. 2115 (1997).

PROFESSOR RANDI MANDELBAUM

Thank you so much Sydney, that was really wonderful. You gave us so much to think about. I guess I have one question for you. You referenced that that some people think that the child welfare system should be abolished and overhauled. I guess I am wondering why you think your proposal to adopt the higher standards and protections of ICWA is a better way to reform the system.

SYDNEY GROLL

So, I will say I do not think I believe that it is necessarily a better way. I think that there are incredible abolitionists and abolition work happening right now in our country that is going to inform our projection going forward. And I think what I view this as is a potential step of, “if we are going to reimagine, are there elements of this that we can reimagine with?” And are some of these “light switch” things that we can turn on and off right now as we work towards something like abolition? I think that is more of the framework in which I view it. Again, I highly recommend checking out the upEND movement because some of the things I talked about, such as active efforts, are part of that. They have some really great further information on their proposals.

PROFESSOR RANDI MANDELBAUM

Great, thank you so much and I hope we can hear more from you at the end of our time. I am now going to turn it over to Deputy Commissioner Stoehr, who is going to talk to us about some of the recent and wonderful efforts of the Department of Children and Families.¹¹ I think she is going to show us a few slides. And I will turn it over to her. Thank you.

¹¹ *About DCF*, N.J. DEP’T OF CHILD. & FAMS., <https://www.nj.gov/dcf/about/> (last visited May 19, 2022).

DEPUTY COMMISSIONER KATHERINE STOEHR

Good evening and thank you to everyone. Thanks to the Rutgers Journal of Law and Public Policy for extending the invitation to DCF to participate in this evening's discussion. There is so much underway, as Randi just mentioned, at the department; and we are grateful for this opportunity to share our work with you. I could go on for hours, so I am going to hopefully stick inside the time limits, but you can give me a heads up if I am not.

Before I go too far, I want to make sure that we have a shared understanding tonight of what the Department of Children and Families (“DCF”) is responsible for. DCF serves over 100,000 New Jersey constituents in any given month in a variety of ways. DCF is responsible for licensing all of the childcare and residential treatment facilities in the state. We operate sixteen schools for children with specific needs, such as medical fragility, significant behavioral health challenges, or pregnant and parenting youth. We operate the children's system of care, and nationally recognized systems serving children and youth with significant behavioral health conditions, substance use disorders, or intellectual and developmental disabilities, and their families. On any given day, over 35,000 New Jersey children receive service from this children system of care. DCF is also the home to New Jersey's Division on Women, which among other responsibilities, administers a statewide network of programming to prevent gender-based violence and to support survivors.

Our network of prevention services includes fifty-seven community-based family success centers located throughout the state; the state's kinship navigator program, which provides support to adults who find themselves caring for relative children outside of the foster care system, including referral and information and peer support; a statewide network of three evidence-based home visiting programs across all twenty-one counties; and now the new universal newborn home-visiting program; and then our child protection system, which includes the state child abuse hotline, child protection investigations, case management support to prevent family separation, and then operation of the state's foster care system.

New Jersey's investments in the prevention of family separation are substantial and include, just to name a few, keeping families together, a statewide supportive housing program for families with child welfare involvement, peer recovery support specialists who provide peer to peer support for parents with substance use disorders and all of our offices, [certified alcohol and drug counselors] and domestic violence liaison support available statewide, and the state's family preservation services program which provides crisis management and stabilization services.

So that is a little bit about the Department. At the start of the administration in 2018, DCF undertook a review of the department, its programs, and achievements. The Commissioner launched a statewide listening tour to hear directly from youth and from families who rely on our work. And we examined several years' worth of needs assessments and performance data. We use that information to create the department's strategic plan. Now we'll see if I am capable of sharing a slide, as Randi mentioned earlier.

Okay, I hope you can see that largely enough. At the core of our strategic direction is the goal of building a twenty-first century child welfare agency, and this goal is grounded in a vision that every resident of New Jersey is safe, healthy, and connected. It is supported by our strategic values of collaboration, equity, evidence, family, and integrity, and implemented through a practice lens of the core approaches that you see listed on the left here: race equity, healing-centered practice, the protective factors framework, honoring family voice, and engaging in collaborative safety. And it identifies transformational goals: the primary prevention of maltreatment, preserving kinship connections, staff health and wellness, and an integrated children's system of care.

So that is the strategy. And you might wonder, "what are we doing to advance that strategy?" I am excited to share with you tonight some of what is underway. I am just giving you highlights here, so I will be happy to take questions. I will begin with our core strategies. Two years ago, DCF formed an internal race equity steering committee which has been active in furthering the department's work to promote race equity. Last spring and summer, DCF participated in two race

equity trainings. One was a four-module instructional offered through the Kirwan Institute, called “Exploring Implicit Bias in Child Protection”,¹² and the second was a multi-module series presented by Dr. Jessica Price, a child welfare expert on staff at Florida State University.¹³

We are following up these trainings with courageous conversations, like facilitator-led discussions among staff. And we have brought in Joyce James, a nationally recognized expert in race equity and child welfare, to work directly with our DCF divisions. We have hired a diversity officer in our Office of Human Resources. We have created an Office of Diversity, Equity and Inclusion. And we continue working closely with the judiciary to prioritize, institutionalize, and achieve race equity in New Jersey's child welfare system. We are working to ensure that we are tracking child and family outcomes and experiences in ways that are disaggregated by race and connecting our staff to national experts in this area.

Turning to collaborative safety, DCF has been working for several years to impart state-of-the-art safety science practices into our reviews of critical incidents. These practices, which have long been used in other safety-critical sectors—such as heavy industry, health care, and energy—allow us to carefully examine the strength of our systems whenever a critical incident occurs. And to further this work, we are proud to be founding members of the National Partnership for Child Safety, a quality improvement collaborative that aims to prevent maltreatment and child fatalities to the development of a national shared learning system.

¹² *Implicit Racial Bias 101: Exploring Implicit Bias in Child Protection*, CTR. FOR THE STUDY OF SOC. POL’Y: KIRWAN INST. FOR THE STUDY OF RACE & ETHNICITY, <https://kirwaninstitute.osu.edu/implicit-bias-101#:~:text=Implicit%20bias%2C%20which%20can%20be,lives%20of%20children%20and%20families>. (last visited May 19, 2022).

¹³ *Home*, Jessica Pryce, Ph.D, MSW, <https://jessicaprycephd.com/> (last visited May 19, 2022).

Relative to family voice, DCF's Youth Council¹⁴ has been working for some two years to elevate the voices of youth directly impacted by DCF. They presented our executive management team with recommendations for change, and as a result, they are now working with the state Office of Information Technology to completely revamp the youth resource center website. They have drafted legislation on kinship and sibling rights, and they are helping us to revise training for resource families. Youth council members helped to draft an RFP [request for proposal] for peer counseling services that they felt the state was lacking. And they provide informed feedback on our communications, messaging, and publications.

In addition, the Office of Family Voice has launched a Wisdom Council that will ultimately lead to the formation of a formal statewide Parent Council. The voices of birth parents, relative caregivers, and foster parents with lived experience will provide ideas that inform system priorities and context reflecting community needs. And recently, the Fatherhood Council participated in a children-in-court webinar to describe their lived experience of challenges in our system. Our healing centered practice has expanded as well. With a grant from the Federal Substance Abuse and Mental Health Services Administration, we are training our children system of care and child protection and permanency staff in the nurtured-heart approach.

We are also training staff from our Office of Education, our resource and kinship families, as well as our care management organizations, family support organizations, mobile response providers, and children's interagency coordinating councils. This is anticipated to improve interactions with at least 60,000 children and youth over the course of the four-year grant. In addition, DCF has, through our partnership with the ACES collaborative—which includes the former Nicholson Foundation, the TURL Fund, and the Burke Foundation—created an interagency task force on ACES—or adverse childhood

¹⁴ *Office of Family Voice- Wisdom Council*, N.J. DEP'T OF CHILD. & FAMS., <https://www.nj.gov/dcf/providers/boards/familyvoice.html> (last visited May 19, 2022).

experiences—which has begun implementation of the state's ACES action plan issued in January 2021. Staff have conducted multiple trainings statewide on the impact of ACES and how to begin the process of intervening, healing from, and preventing the impact of ACES. They also began working to establish a technical assistance center that will assist agencies and communities statewide.

With respect to our transformational goals, we are also hard at work there. To advance an integrated children's system of care, we are evolving our support for providers as well as for the youth and families we serve. During Commissioner Byers' listening tour, and in response to internal analysis and feedback from providers, we recognize that the [Children's System of Care] ("CSOC")¹⁵ structure had become so inadequate that it hampered collective efforts to improve the quality of and access to critical treatment services for children, youth, and their families. And as a result, we developed and implemented a rate-rebalancing strategy, which was ultimately approved by the Federal Centers for Medicare and Medicaid Services and has been implemented.

In collaboration with the Center for Health Care strategies and Casey Family Programs, CSOC leadership and stakeholders from across the state formed a short-term task force to help define and shape the division's behavioral and physical health integration model. They reviewed materials and initiatives and arrived at a strategic framework to expand and advance CSOC's programs and services. CSOC has developed the "Zero-to-Five, Helping Families Thrive" initiative, which will promote infant and early childhood mental health through building safe, healthy, and emotionally connected relationships between caregivers and children. And lastly, the Dreams Project, developing resiliency with engaging approaches to maximize success, is a one-year collaborative initiative amongst CSOC, the DOE, UBHC, and our local system partners and school districts.

With respect to staff health and wellness, we have had a strong focus on efforts to promote staff safety and health throughout the

¹⁵ *Children's System of Care*, N.J. DEP'T OF CHILD. & FAMS, <https://www.nj.gov/dcf/about/divisions/dsc/> (last visited May 19, 2022).

pandemic and to communicate and to offer needed flexibility for our staff where we can. Throughout the pandemic, the Commissioner has made use of weekly all-staff Teams calls to ensure that everyone was receiving the same information at the same time to prevent anxiety and misinformation from growing. We conducted staff surveys so that our policies could reflect staff input. We created a mindfulness web page with tips to build resilience and have created an Office of Staff Health and Wellness, which has begun monthly Teams calls on issues impacting our workers, made a therapy dog available, and sends out daily affirmation messages to staff.

To strengthen our state's approaches to the prevention of maltreatment, we have a lot underway. Throughout 2020, we partnered with local human services advisory councils to conduct a county-by-county needs assessment. We heard about families' upstream needs for housing, transportation, and access to treatment services, and in addition, heard a lot about a lack of awareness of what help is already available at the local level. Our newly formed Office of Housing has been working to deepen DCF's partnerships with local housing continuums of care and our partnership with the Division of Community Affairs at the state level. As a result, we have been better able to ensure that our staff, providers, and other stakeholders have been kept abreast of changes in rental, mortgage, and energy assistance.

Governor Murphy's investment in keeping families together has ensured that New Jersey has, if not the largest, one of the largest supportive housing programs for child welfare involved families in the United States, serving 650 families. In July, Governor Murphy signed legislation that creates, for the first time in the state's history, the universal newborn home visiting program. This health care program will, once built, offer the voluntary support of a registered nurse to all newborns in the state to support maternal and infant health, feeding, and attachment. New Jersey is only the second state in the US to have a universal program like this and we like to say that Oregon may have been first, but New Jersey's is going to be better.

The most recent state budget also made a significant investment in domestic violence and sexual violence services, which will help us to

build the cultural competence and overall strength of the network of domestic violence and sexual violence provider networks.

My last highlight is about kinship placement. In 2020, 1,684 children entered foster care in New Jersey. Children who enter foster care have not only been maltreated at home, but also navigate the trauma associated with separation from their family and sometimes from school and familiar routines. One of the strongest actions a child welfare system can take to promote resilience and recovery in children who enter foster care is to help someone the child already knows—a relative or a close family friend—to become the child’s foster parent. Use of these forms of kinship care has been shown to increase behavioral and emotional well-being of children in foster care. Additionally, children placed with kin are less likely to experience multiple placements during their time in foster care. In New Jersey, DCF data shows that the single most important protective factor toward positive post-reunification outcomes is kinship involvement with the child and family.

To advance our work on kinship, we developed and launched a statewide survey aimed at understanding DCP&P staff’s attitudes and perspectives on their work with kin. The survey was sent to over 5,000 staff members with a 77% completion rate. We conducted in-office presentations on the value of kinship care for children and families, and the related support that statewide operations can provide. In addition, we announced a joint venture with New York City and New York State to better facilitate interstate placements of children and youth in cases involving abuse, neglect, and incapacitation. DCF has taken measures to ease the pathway to use of kinship placements if children are entering foster care, providing flexibilities with respect to review of physical plans and other requirements.

So, what is the impact of all of these efforts? Since the creation of the department in 2006, DCF has used data to guide decisions and to report out on steps toward reform. According to some of the most recent federal statistics, which come from the most recently released Child Welfare Outcomes Report, which is put forward by the US Department of Health and Human Services, New Jersey’s children are the victims of maltreatment less than a third as often as children in the United States

on average. New Jersey uses family separation as a child safety intervention about half as often as the other jurisdictions in the United States on average. And when family separation is used as a child safety intervention, children in New Jersey are more likely to be reunified with their families than children in the United States on average. And finally, children in New Jersey's foster care system are less likely to be placed in a residential care setting.

Those data that I just shared with you are from a couple years ago because it is the most recent federal report. But I did bring with me, as anyone who knows me would have predicted, some slides specific to New Jersey. So, I'll just quickly go through those as well.

So, this is back to maltreatment rates. We can see here that, again, New Jersey's children are victimized less often than the national average and you can see the trend over time that our victimization rate has been cut by more than half since 2013. In terms of out-of-home placement rates, this is showing you the rate per thousand. So up at the top left, it would be something like 2.4 children out of every 1000 children entering the foster care system, and then by 2020, that has been cut to less than half of that 2013 starting point. So, we can see that the use of family separation as a child safety intervention has become far less common in New Jersey than it used to be.

With respect to racial disparities, we can see several things. We can see—relative to White children who are the yellow line here—that children who are non-White Hispanic, the red line, are entering foster care at a rate that's higher per thousand than White children. And the blue line is Black or African American children, who are entering foster care at a rate far higher than their White or Hispanic peers. And we also see that children of other races, which might include Native American, Asian Pacific Islander and others in the green line, are entering care at rates much lower than White children. So there is just disparity or just disproportionality in both directions.

What we want to see over time is all those lines would converge, and that would indicate no disparity. And what we are seeing over time is they are trending toward that point. We have a long way to go. We are not saying we are done by any stretch of the imagination, but we can

see that, especially over the last couple of years, this line has started to move, and the trend has started to go in the direction that we all want it to.

And then lastly, kinship rates, this is showing what percentage of children who are entering care have their first placement with a relative. And you can see that that's been growing since 2019. So, the last thing I want to say is we are moving the needle in the right direction on a number of fronts. And we've made a lot of great progress in our system over the last few decades by focusing on reform. But we have also gotten to a space where this kind of reform is not enough. We have acknowledged that there are things through past reforms that we are currently doing well. And for those elements, we need to continue to do them well—like maintaining excellence around permanency, and providing access to behavioral health and prevention services, and supporting youth and care to transition to adulthood.

We understand that there are still areas where government can reform further, but we also believe that if we are going to truly transform our system, not just reform it, we need to go further. Since 2018, we've been listening to constituent voice to guide our work. And now is the time for us to move from simply providing a seat at the table to sharing power with the families that we serve. We need to invite them into power-sharing positions and be guided by their voices and their experiences to truly make an impact in the success of all families. We need a system-wide shift away from child welfare, which is a baseline measurement indicating an absence of harm, to family well-being, which is a system invested in the success of a family, not just accepting the bare minimum.

So, what does this look like? For us, Powerful Families Powerful Communities New Jersey¹⁶ is the evolution of New Jersey's child welfare system into something better. It is an exciting new direction for New Jersey. And while DCF, of course, is continuing our

¹⁶ POWERFUL FAMS. POWERFUL COMMUNITIES N.J., <https://www.powerfulfamiliesnj.org/> (last visited May 19, 2022).

core functions, we will be working on this transformation. Using human-centered design, a proven business approach to creating innovative solutions, and led by people with lived experience, we are working to develop a transformed system for family well-being—generating effective solutions that lead to elimination of the placement of children into nonrelative homes, elimination of racial disparities in rates of family separation, and sustainable changes in the financing and operation of the department.

Last summer, Benita Miller, a child welfare expert from New York City, was appointed as an executive on loan and executive director of Powerful Families Powerful Communities. She is working closely with coalition and community members to advance this initiative. The Powerful Families team combines sophisticated design capabilities, domain experience, and diverse local partners all working directly with government officials. The program was conceptualized two years ago with support of Casey Family Programs. It is led by a strategy team made up of national and local leaders with reputations and relationships needed to help us bust barriers and move towards shifting power. And the design relies on parents and young adults from communities leading local teams, recruiting other parents and youth, and informing and designing the interventions that will be tested and implemented. Co-design work with parents and young adults has launched in Camden, Newark, and in Cumberland. I think I went several minutes over my time, but I will stop there, and thank you again for the opportunity to share information about DCF.

PROFESSOR RANDI MANDELBAUM

Thank you so much for that incredibly informative and inspiring talk. I have two questions for you. Do you hope that other states will look to New Jersey's efforts to support families and, if so, what do you hope that they draw from our state as an example?

DEPUTY COMMISSIONER KATHERINE STOEHR

That is a really good question, Randi. It is actually a really exciting time to work in child welfare. We are not the only state looking to do things differently, and so, while I hope other states look to New Jersey, I also expect to look to other states.

I think, if you have been in this field long enough, it is not about who gets there first or who gets the credit so much as, “gosh did they figure that out? That is great. How can we leverage somebody else's expertise and share emerging best practices with residents here in New Jersey?” I hope that, as we go along, we become really adept at truly listening—more than listening to—truly partnering with the residents that we are here to serve, the constituents of New Jersey. Not just having a focus group, not just listening sometimes, but actually creating new ways to make decisions together with families. That would be a different way of doing this. So, I hope we are able to work on that. Whether we get there first I do not know, but I hope that is what we accomplish in the time that we have here.

PROFESSOR RANDI MANDELBAUM

My other question is: the foster care numbers in New Jersey are at an all-time low, as one of your slides shows—what do you attribute this to? If you even can attribute it to one or other things.

DEPUTY COMMISSIONER KATHERINE STOEHR

Yeah, I think there is a lot in that space. I will say, having worked in a couple of different jurisdictions, that the degree to which New Jersey, as a state, has invested steadily for a decade or more in the kinds of services that I alluded to in the prevention space is really remarkable.

And so, my suspicion is that, through those investments in preventing distress from happening—you look at those entry rates, and also the maltreatment rates are down. So, I think that part of it is that those prevention services—the strong home visiting network, there is so much in this state in place to support young families with young children—the education system, all the public services that we have

here, they are very rich—I think bear that kind of fruit. And in addition, I think that the changes in child welfare and in our field, and in trying to do everything we can, knowing that the science is telling us now so much more about the trauma of family separation. I think that is helping to make an appropriate recalibration of decision-making. And not just on the part of the Division, but also the attorneys and the judges and others who are involved in making those really challenging decisions. So that that is my perspective. Me, being a data person, obviously I want to research it, but I think that is about what we can conclude for now.

PROFESSOR RANDI MANDELBAUM

Thank you so much. Thank you. Before I turn to our next panelist, Sam has a CLE code to read out.

[CLE INFORMATION OMITTED]

PROFESSOR RANDI MANDELBAUM

Deputy Commissioner Stoehr gave me a great intro because she talked about prevention work. And so, I am now going to turn it over to some of our wonderful panelists from the Legal Services of New Jersey, who are working in a prevention program, and I am going to let them explain it. We have Sylvia Thomas, who is an attorney and I think a Rutgers alum, and her two parent allies who work with them, Alexandra and Iesha. I will turn it over to Ms. Thomas.

SYLVIA THOMAS

Good evening, everyone. I want to first thank Randi and thank Sam for inviting us to speak on the work that we do here at Legal Services, and to give an opportunity to our parent allies who have lived experiences and also work effortlessly to serve our clients through their lived experience, their network connections with local community initiatives.

Just a little bit about Legal Services before I let you guys hear from Iesha and Alexandra. Legal Services is the coordinating body for

the statewide legal services network, which is by far the largest and only comprehensive provider of free civil legal assistance for New Jersey residents in poverty. The LSNJ provides for special projects, specifically we have the statewide Hotline, where we provide information and referrals to low-income folks throughout New Jersey. The Hotline is available from 8am to 5:30pm. We also have specific legal representation projects. We have DVRP, which is our domestic violence project, we have immigration representation project, anti-trafficking “protect” project, programs on workers’ legal rights, programs on Social Security project. We also have LAMP, which is our legal assistance to medical patients program. We have a lot of projects and we service a lot of folks within the New Jersey community.

And the project that I belong to, the Family Stability and Preservation Project, formerly known as the Family Representation Project—we have actually changed our name to better reflect the work that we do, which is in preservation and stability of families—our Family Stability and Preservation Project has been serving families for some time now. I have been at Legal Services since 2018, which is when our Family Representation Project formally began taking referrals from community stakeholders, specifically around stabilizing and assisting families who are involved in child welfare, but for poverty-related reasons.

It is an unfortunate reality that the majority of children that come in contact with child welfare system are from families in poverty, whose incomes fall far below the federal poverty level. According to recent released reports from LSNJ’s research institute, nearly one third of New Jersey’s residents are living below what is called the “true poverty” level—which is the minimum income level needed to afford basic necessities within the state. So, we have a very large amount of constituency that utilizes the work that we do at LSNJ.

My work for the Family Stability and Preservation Project, we have been taking direct referrals from community stakeholders. We have been in partnership with Essex County most comprehensively, but we do take referrals throughout the state for families who are involved in child welfare whose situations have been exacerbated by poverty and

not by any issues related to child abuse or neglect. But child welfare is involved because, naturally, child welfare ensures the safety of children; and poverty also creates safety problems and safety issues for families. So, our office will take referrals and I, as the attorney on these cases previously, before we took on two additional attorneys—we now have Janell Casey and Anne Galvin, who are now on our staff providing legal representation to families—previously, it was just me taking on these referrals and we would work towards dealing with all the clients' civil legal issues. We also have a fully staffed social work unit, which also provides assistance and resources to families that we make referrals to for that unit. We have our general representation unit, which provides assistance to families who are struggling with issues related to social service benefits, Medicaid, things like that. And I would provide that family with not only legal advice but help them to understand child welfare. Because that is a major barrier for families, the distrust that exists, historically, for obvious reasons, between child welfare and communities of need and poverty, impoverished communities. Child Welfare spends a lot of time in these communities for obvious reasons due to the poverty concerns that exist there. So there is a lot of mistrust in these communities, and I help families to understand the role of child welfare, but also to help them understand their rights and obligations within the child welfare system, and to help them navigate the system, towards the closure of their case that would not result in any removal of children or any other negative effects to the family.

One thing that we have learned since I have been at LSNJ taking on these referrals since 2018, is that I still do not bridge the gap for lived experience. All the compassion in the world, all of the explanation and disclaimers about my role in their lives as an attorney, and the privileges that exists between us as client and attorney—there is still a gap there when it comes to building the trust with clients around what they are experiencing, and what they are going through with the child welfare system and in their communities. And in that vein, we also added our Parent Ally Program, which is where Iesha and Alexandra come into the picture. They have been tremendous in their efforts in helping us to stabilize our families. They build a level of trust that I could not

possibly build considering, you know, my lack of experience, hands-on experience in the child welfare system.

Iesha and Alexandra have both survived child welfare, thrived, and have come out in a way that allows them to not only expose themselves to child welfare, but to help families within the child welfare system to understand their responsibilities in child welfare. To be a support system to them, and to provide them with resources that they are able to get from the community, and also to help them with stability and preservation of the family unit.

As an overview of the sort of efforts that they provide and the assistance they provide to families, our goal is to secure supportive services, not only from the child welfare agency, but to ensure families' rights to government benefits, seeing that other legal issues have been addressed. Our parent allies help parents to understand the system that they become involved in. They assist parents with access to community resources. They accompany parents to service appointments. They extend moral support and encouragement throughout their DCP&P case. The work that they do really is about being a support system and being that person that our clients can go to, to talk about pretty much anything.

Iesha and Alexandra attend family team meetings. They regularly communicate with not only caseworkers on cases, but also with our clients' attorneys because some of our cases are post-removal. So, the work that they do is very important in bridging the gap between our clients' mistrust for child welfare and helping them to navigate it and get through the system in order to be successful in their cases.

And I do not want to take much more time because it is very important that you all hear from Iesha and Alexandra on the work that they do with our project at LSNJ. And I do not want to choose, but whichever of you would like to speak first, just to give everyone an idea of your experiences and where a parent ally would have been very helpful in your cases. But also touch on what you have done to help families and the tremendous work you have done.

[IESHA HAMMONS' SPEECH REDACTED—DID NOT PROVIDE
CONSENT]

SYLVIA THOMAS

Thank you, Iesha. Alexandra, can you tell us a little bit about your history and your experiences as a parent ally?

ALEXANDRA (PARENT ALLY)

Of course. I do want to mention that the soul-aching pain that a woman endures when her children are taken away is almost, for me, it was almost unsurvivable. I think that is probably the worst thing you could do to a person, especially a mother, a woman who carried a child in the womb, is to take their children away. There were many instances in my story. I had two DCP&P cases. One tragically ended in the ultimate adoption of my two eldest children to strangers, even though they had godparents and I have family. That was not explored. I was not offered any help. I was just, I was ignorant to my own alcoholism and at the time. I just needed some help. And like I said, I did not have a lot of support. It was just me and my husband against the world and raising our own family—our own little brood. And there were just so many places where somebody could have stepped in and helped me and guided me to treatment, or handed me a pamphlet, or just believed in me, and just said “you're worthy and you're not invisible and I see you.”

This is what I do for my clients today. I let them know that “you're worth it. Don't listen to the other side.” Because everything on the other side, I am sorry, but it is all negative. Maybe if the other side started pointing out your good points and where you could improve, where they see some kind of hope in you, that would empower the person, the parent, to want to improve themselves so that they can have a better life for themselves and their children.

For me, poverty, race, and substance abuse do not go hand-in-hand with child abuse and neglect, necessarily. People do not ask to be born into poverty, and people also do not find housing overnight. We

have this artificial timeline too, ASFA,¹⁷ that nobody ever talks about. Mine ran out before I could get into treatment myself, and I lost my children. I am here to share my story because I hope it will bring awareness to how having a parent ally and all the pre-prevention work could have impacted a lot of these cases, and mine. The children that get removed—nobody revisits the children years later to see how they are doing with those with those foster parents.

I recently reunited—thank God—with my older children, simply because they needed me. And the condition that my children were in—I'm sorry—but my son looked like a cancer patient, like a St. Jude's commercial, because had he trichotillomania, which is the pulling out of one's own hair. He pulled out all his eyelashes, all his eyebrows, half of his head of hair was missing. My daughter is eight and was praying to God not to wake her up the next day. Mind you, this whole time I had already been two years sober. I had two additional children. I had reunified with the baby that I had taken from me from my second case. And we were here the whole entire time.

Since being reunified with us, and just being here simply on the weekends, my son has a full head of hair. His eyelashes and his eyebrows are back. There is light in his eyes. I got my daughter the psychiatric help she needed because I am her DNA, because I know what runs in her family, because I know what kind of help she needed. [Children] do not come with instructions like that—they do not get sent with that. So how do you know how to best help her?

My husband and I paid out of pocket to have her seen by a psychiatrist and reevaluated. She was eventually committed because she was suicidal. And this little girl was taken at three years old. And that is how much it impacted her to not have her parents. She was committed. She is on proper medication now; she goes to a day program at Trintas; she does her therapy; she sees her mom and her dad every weekend; and she is a different daughter— a different girl. She is blossomed. And we do not look forward to see—forget the parents,

¹⁷ Adoption and Safe Families Act, Pub. L. No. 105-89, 111 Stat. 2115 (1997).

because we do not check on them, like how are they doing after we remove their children and destroy their lives?—but how are these kids doing? How are these children doing in foster care? How are these kids doing five years later after being adopted?

Another reason why I lost my children was because I lost my TRA [trade readjustment allowance]. The only reason I lost my TRA was because my children were removed, so they took it away from me. So then that was used against me in court. No longer did we have stable housing. We had had stable housing, we had a five-bedroom house, and we had assistance. It is like a Catch-22.

My husband fought to the very end. And in the end, he was not good enough. Simply because he was going to be a single father? Because of financial means? Because of the housing? I mean if all these programs out there existed, which I now know, like Keeping Families Together,¹⁸ that would have been a great option for my husband, because that is the only barrier he faced. His only issue was being married to me at the time.

Similarly, clients of mine, all they need is transportation. All they need is a working cell phone. All they need is to find employment. But when you have the stress of DCP&P in your life, you are not thinking straight anymore. You need help. You need somebody to come in to help you with the interviews, help you with resumes, help you fill out applications, and do whatever it takes.

But that is not enough to remove and keep children away from their families. Let's put these resources that are out there in the community, in this wonderful state of New Jersey, into the hands of these struggling families. It does not that mean we are bad people. We are just struggling. We are human beings, this is not a meat market. We are not selling horses at the horse race, these are children. This is our future. These are our communities. You know, so the work I do today, I am sorry I am just going to catch my breath for a minute, because I

¹⁸ FAM. CONNECTIONS N.J., KEEPING FAMILIES TOGETHER, <https://www.familyconnections.nj.org/wp-content/uploads/2021/09/FCKFTBroch.pdf> (last visited May 19, 2022).

have such PTSD, I tell you to this day. I am like I sometimes cannot catch my breath.

Because of the help, support, and healing that I received once I finally did get treatment, which I sought on my own, I am now going on 4 years sober. I am working as a parent ally, for Legal Services, and I get to use my pain for a purpose, and I get to raise and nurture my children—all of them. In one way, shape, or form, I do have all of my children, albeit not legally for my older two. And that is another thing: no matter how badly they want to come home and live with me and their three full siblings, and their mom and dad [who are] still married, celebrated 19 years together yesterday—they cannot. Legally, they cannot. It does not matter how hard they cry or beg, they cannot come home.

This is another sad reality. I am not a low life. I was made to feel like one. My life is worthy. I was made to feel like it wasn't in court. There was nothing good said about me. I am capable. I am completely capable; actually, I am talented, and I have many good qualities. These are things that I needed to hear then, that would have empowered me to stand up and fight harder, but instead I put my tail between my legs and I ran out of that courtroom every time, not knowing if I could go back to the next one, not knowing if I could survive hearing it one more time from that other side, not knowing if I could go through another psychological evaluation after another evaluation to prove that I am a perfect parent.

Nobody is perfect. Everybody makes mistakes, but that is why there is help. There is help for mental health, substance abuse, there is help for poverty. There is housing help, but again, these things do not happen overnight—everybody's journey is different. I feel like if I had been able to utilize prevention work, had I had a parent ally, had I had the support of an organization like LSNJ, and the many resources in our community that are now presented and offered, the outcome of my termination would have been different. I believe with no removal at all. What I am doing now as a parent ally would have had a huge impact for me had I had one, and that is why what I am doing today, being who we

needed for these families that I serve today, and who I am fighting for is so simple. I already had a reunification. What a beautiful thing!

SYLVIA THOMAS

I was going to say, she has had more than just a reunification. Alexandra and Iesha are a little bit like child welfare famous right now, because when I mention them, people respond like “oh yes I have heard about Alexandra. I have heard of Iesha and the work that they do.” Alexandra has had not just a reunification with a parent, but also a supporting kin, in supported resource parenting from the parents so, that was also a wonderful sort of reunification with family, because this child now has a permanent connection with their blood relatives because, you know, Alexandra was there to guide that resource family member towards reunification with this child.

So, the work they do is tremendous, and I cannot even express how much exposure this is for them as well. Regardless of what they come in contact with for clients, you know, some of them have mental health issues and substance abuse issues. There is a lot going on with many of our clients and they do not waver in their steadfastness in assisting families and being there for them. Even having their own historic traumas brought to the surface sometimes when they are dealing with our parents, it does not shake them. It does not push them backwards at all. And in fact, Alexandra and Iesha both have formed a sense of greater strength from the work that they do as parent allies. They feel so much more comfortable with being in child welfare circles that previously would have just judged them for their history.

So, I just wanted to let everyone know how proud I am of them, I did not want to spend too much time talking about Legal Services generally. I needed you to know about the kind of impact that lived experiences have in child welfare cases. And the contact that they have with parents, it really is almost on a spiritual level.

ALEXANDRA (PARENT ALLY)

I want to say my clients trust me, they lean on me, they text me at all times of the day and night. They trust that I am not going to go run and tell—they can really talk to me about their struggles and where their needs are, what their needs are right now, to help them. Even if the client is just overwhelmed, I am there to just ease the load a little bit and help facilitate the next step to make it a successful reunification or a successful non-removal. Too often we do not see beyond what we think child welfare is. It is so much deeper than that. I think that these stories and voices need to be heard more often, and we need to start breaking the stigma and the racism that we face out there, and put more parent allies and supports in place for our families and the children of America and New Jersey. Of our own families.

I am just so proud of what I do today. I always said if I can only just help one family in my life, then I have succeeded. I have done something that my children can be proud of, despite what happened to them and what they went through. I will never stop fighting because every step I take is for them. Thank you.

PROFESSOR RANDI MANDELBAUM

I want to thank you all, and especially Alexandra and Iesha for sharing your stories and being so open with us tonight. The pre-petition work that Legal Services of New Jersey is doing is just so critical, and helping families keep children out of foster care, and also doing what I think what the Deputy Commissioner said, which is really working through the parent allies, the people that have experience and came out the other end.

I have a question for Alexandra and Iesha, and then two questions for Ms. Thomas. So, Alexandra and Iesha, if you could make one change to the DCP&P system, what would it be?

IESHA (PARENT ALLY): REDACTED

PROFESSOR RANDI MANDELBAUM

Ok, thank you. And Alexandra, do you have any thoughts?

ALEXANDRA (PARENT ALLY)

I would say, the first thing to ask is: how can we help you? Where are you struggling? Why is this happening? How can we help? What is going to best serve your family? And then go from there. Do not criticize and put down and pinpoint the negative. Let's try to find the family strengths and focus on the strengths, and then we can help them with the weaknesses, while keeping the family together. Because it is traumatic for the family, not just the mother and father, but the whole family suffers. Especially the children. Think about the children. If they see that you guys are coming in and helping their family, now that is a complete change of thought of who DCP&P is and what child welfare means. If you were actually stepping in and providing these resources upfront and first and foremost, before the criticism, before the put downs, before "oh you could have done better, or your bad at this." Before all that, ask: how can we help you?

And another thing is this. A lot of the times, they send you places and they want you to sit down and be open and honest with you know different providers. However, a lot of the times those words, and what you were honest and open about, get used against you.

We need to create a safe space for everybody, because the family is not going to heal properly, or the person who is struggling with substance abuse, if they are afraid that what they are going to say is going to damage their case with DCP&P. I know obviously there are some cases out there that are scary and that do warrant removals. But we need to create a more trusting relationship, and not always saying that this is the good guy and this is the bad guy. It should just be a collective, and it should just be about helping and supporting.

PROFESSOR RANDI MANDELBAUM

Thank you. Your words are so powerful. And Ms. Thomas, I have a couple of questions for you. You mentioned so many problems that the families you represent are struggling with. Is there one problem that's more pernicious or more difficult for the families to overcome, or for you to help the families with, than any other?

SYLVIA THOMAS

Absolutely. In fact, we are dealing right now with the housing moratoriums ending. As of February 1, 2022, our families are in dire need of housing resources. This was an issue that we have historically struggled with at LSNJ even before the pandemic began. Housing is, within our data—as far as the work that we've done and the different referrals we made, housing makes up for about 80% of all of our referrals in office.

Our families are dealing with that as their number one issue. And it is the number one issue and barrier to reunification at this point. It is the thing that keeps most of our cases open in prevention. Housing is the number one detriment to our families. Only second to that would be entitlements and access to resources through the Board of Social Services, and the sorts of difficulties our parents have with navigating the social services systems. That would be what I would see as being the number one thing that our families face.

PROFESSOR RANDI MANDELBAUM

I am not surprised. We have a question in the Q&A asking if Legal Services of New Jersey ever assists parents, trying to get their children back in cases of abuse or neglect?

SYLVIA THOMAS

Absolutely. We get many referrals from the Office of the Public Defender (OPD), through their Office of Parental Representation (OPR) program. We get referrals from attorneys, specifically to provide assistance with any poverty-related issues that may be a barrier to reunification at that point in the person's case. But also, we get referrals

from attorneys who are looking to have kin represented in these cases, who were not being heard, for resource placements. Kin should be looked to from a policy perspective. That is the first place DCP&P is to look for alternatives to stranger foster care. We represent family members who don't have a right to representation in the courtroom, in having their voice heard, as far as the rights of the children, to have that connection to family.

PROFESSOR RANDI MANDELBAUM

Thank you. So, I now have the really difficult task of following Alexandra and Iesha. But I wanted to make a few remarks myself, and then we will open it up to a fuller discussion that Sam will facilitate. There are so many positive changes taking place in New Jersey that are improving the likelihood that families remain together, and that are beginning to combat the insidious and pervasive racism in our child welfare systems. They are also called family regulation systems, or, I like Deputy Commissioner Stoehr's title of "family well-being systems." You've heard about many of them this evening from Ms. Thomas, Alexandra and Iesha, and the Deputy Commissioner.

These efforts are so important and must continue. We know that children suffer trauma when they are removed from parents and placed into foster care. They should only be removed as the very last resort, if their safety is in serious jeopardy. If removal is necessary, then we should be immediately looking to kin as an alternative. And as we heard from Iesha and Alexandra, we also know that parents suffer tremendous trauma when their children are removed. We need to continue assessing every aspect of our current family well-being system to see how we can combat implicit bias and overt racism. From the first phone call to our child welfare hotline, to the investigations that are conducted once the call is made, to the decisions to remove a child from a parent, and then how we interact to work with the children and families if they need to become involved with the child protection system.

As Sydney suggested we need to ask, why does this doctor, teacher, or neighbor call the hotline? Would they have called the hotline if the family was white? If abuse or neglect is substantiated by DCP&P

against a parent, would we be making the same conclusion if the family was not black or brown? And why, just why, are we seeking to remove this child? Is her safety in jeopardy? Or are there protections we can put into place to avoid the removal? And if a child does enter foster care, we need to constantly be asking if there are relatives who can care for this child.

We need to also ask are we providing relevant and meaningful services—I think you heard that from Alexandra—to the parent or parents, so that the child can return home as soon as possible. And related to this question, why are we paying foster parents so much more in foster care stipends than we provide for families who are living in poverty and who may need financial assistance? And finally, and I think this was the question Alexandra had, but I had this written before: what do the parents and children say they need and want? And have we included them in this in the process and decisions that are being made?

These are all important questions that must be asked if we are to do a better job of keeping families together, and if we're serious about confronting the history of racism that Sydney talked about that undergirds our family regulation systems. Yet, as we transform and reimagine our system, we must make certain that the well-being of children and families remains first and foremost. In emphasizing this point, I want to focus on two areas where I have some concerns, and where I would argue more attention and discussion is needed. The first concerns the support that is being provided to our older foster youth, and by “older,” I am talking ages 14 and older. And the second concerns new legislation concerning kinship care that was enacted in July of last year (2021).

Turning first to older youth in foster care. The reality is that we have been failing them. One of the pillars of child welfare is that we focus on permanency for children enmeshed in our child welfare systems. Federal and state laws mandate that efforts be made to find permanent families for foster children, first by reunifying them with their birth families, or when this is not possible, by securing alternate families through guardianship, placement with kin, or adoption. Yet, for older children, which the federal government is defining as twelve

years and up, there is less than a 50% chance that this goal will be accomplished. And the percentage increases as the child gets older.

While calls to do more to recruit and secure lasting and legally binding families for these youth are well placed and must be headed, we also need to be realistic and recognize that our systems are broken and that is drastically refocusing is required. Not only do these unrealistic expectations cause youth to feel rejected, but because we do not focus enough on ensuring stability and cultivating committed adult connections, too many youth and young adults leave foster care homeless, without having graduated from high school, and without the necessary emotional and financial foundations to be able to make it on their own.

These negative outcomes will only continue unless we force ourselves to take a serious look at our overall objectives for older foster youth, and be willing to think differently, and creatively, for this population. I would posit that we need to rethink how we define permanency, so that it takes into account not only the goal of finding a child, a legally-binding family, but that it also supports the relationships that the child has developed, whether that is a former foster parent, a teacher, a coach or even a parent, where rights may have been terminated. And if the youth does not have these relationships, we need to encourage and nurture these adult connections so youth have someone, or more than one person, that they can lean on as they get older for support and when crises occur. And again, these people may be the youth's natural family as Alexandra's story highlights. Studies have shown that youth who transition into adulthood reach out to family after they leave foster care upwards of 80% of the time, and most frequently reach out to siblings or mothers.

We also need to focus on making sure youth have what they need to transition successfully into adulthood, especially stable housing, the opportunity to work or to go to school, and the ability to access medical care and mental health services. We should not be closing their cases and cutting off services until they do. The pandemic has made the situation even more dire, as have some recent cuts that have been made. Additionally, while federal law has permitted the use of federal funds to

be used to enable youth to remain involved with the system until the age of twenty-three, DCF has not yet sought to make this possible. Yet, there's nothing magic about turning twenty-one. And there are at least some youth who continue to need some assistance beyond their twenty-first birthday.

I do not have time to go into this issue in greater depth, but as we discuss reforms, I want to remind us all that we need to remain vigilant about serving this population of youth, particularly by expanding services to the age of twenty-three, ensuring that no youth exits from DCP&P into homelessness, including more youth in the decisions affecting their lives, which I think is being done, being willing to reengage birth families, and reimagining how we define permanency to include a focus on adult connections and stability.

Turning now to the legislation that was enacted last July. This new legislation¹⁹, which has the important and laudable goal of encouraging children to be placed with kin more frequently if they cannot be with a parent, amends what we call Title 9 and Title 30 of the New Jersey Statutes Annotated, and it does so in some key ways, as a preamble to the Title 30 statute that governs when parental rights can be terminated. Specifically, the amendments shortened the time that children need to be living with a relative before kinship legal guardianship can be awarded by a court and adds language to Title 9, to ensure that kin are looked to first whenever a child is being placed outside of the care of their parents, or parent. The new legislation also changes the standard for how courts will determine whether it is ever in the best interest of the child to terminate parental rights, which admittedly should happen very infrequently, and only after all efforts have been made to avoid doing so.

These are all outcomes that should be supported. However, the amendments have created some unintended consequences that at times can be contrary to the interests and needs of some children and families. Children should be placed with family whenever they cannot be with parents, and the self-determination of families is critical. This is not

¹⁹ S. 3814, 2021 Leg., Reg. Sess. (N.J. 2021).

disputed. Yet, my concern is that the recent amendments create a process where children can be placed with kinship caregivers without support being offered to the parents and to the kinship caregivers. In other words, the changes to the statute, which state that kinship care givers should be looked to first—which on the surface is a wonderful thing and a principle with which I agree—can, in the end, cause children and families to actually receive less support, support is often critical to the long term stability of the family as a whole.

You see, if DCP&P becomes involved and takes custody of a child, and then places that child with a relative, certain protections are triggered for the parents, children, and caregivers. With regard to the parents, as Sydney explained, the law states that they are to receive reasonable efforts to reunify with their children, and services to remedy the issues that may have placed the children at risk. This can include substance abuse treatment, mental health services, or whatever else the parent may need. But if we are now looking to bypass DCP&P, and look to immediately place a child with a kinship caregiver instead of involving DCP&P, parents will not be provided with these necessary services. So, children may remain separated from a parent or parents, and the parents will not receive the necessary rehabilitative services.

Additionally, if the placement with kinship caregivers is made without the involvement of DCP&P, the kinship caregiver herself may be in a worse financial situation. For example, a grandmother caring for two children who were placed with her without the involvement of DCP&P will receive \$500 per month in cash assistance through the Kinship Navigator program, or \$425 from county welfare, whereas that same grandmother, who receives the children as a foster care placement, will receive approximately \$1600 per month, and more if either child has special needs.

So, my concern is that this new legislation has us quickly transferring children to relatives, and potentially bypassing necessary assistance that the children and their caregivers likely need. This will render the placement less stable without it. I am also concerned that families are not apprised of these differences and assistance and given the choice. My other concern is with the modification of the criteria for

when parental rights can be terminated. Again, the intent of the amendments was important. It was aimed at making it so that termination of parental rights seldom is sought and occurs. And I agree with this. But, the amendments potentially eliminate a court's ability to consider the impact of removing a child from a long term foster family as one of the many factors that the court considers when determining whether termination of parental rights is in a child's best interest.

It also has led some state court judges to question whether they have the authority to terminate parental rights. This has been especially so where the prospective adoptive parent is a relative, but also even when this is not the situation. These cases are currently working their way through our appellate courts. So, what do I think should be done? I think we need to take a step back and consider what the families need. What does data tell us? What are the consequences of our reforms to date on the families and especially the children, as well-intentioned as they are? And how can we ensure that the reforms that we are making are truly improving New Jersey systems that are there to help vulnerable children and families? We also need to look beyond the child welfare system, as I think DCF has begun to do. It does not operate in a silo.

If we are serious about helping families and transforming the system, we need to look to the other systems that are also charged with helping families. We need to make efforts as Ms. Thomas so powerfully highlighted, to make housing more affordable, to make drug treatment programs accessible and provide health insurance to all children, regardless of immigration status. We need to ask why the cash assistance we provide to impoverished families is so much less than what we pay to our foster parents. If what we pay foster parents is what has been determined to be what a parent needs each month to care for a child, why isn't this what we offer a parent who is in need?

And with that, I am going to conclude. In our remaining 10 minutes, I am going to turn it over to Sam Romeo, who is going to lead us with some questions and facilitate our final discussion.

SAM ROMEO

Thank you, Professor Mandelbaum, and thank you to our panelists and our extremely brave parent allies for joining us. I know these are not easy issues to talk about, but I personally am inspired by how eloquently you all spoke about them. This was truly an eye-opening program and if we were in person, I know there would be a loud and long round of applause because this has been an extraordinary panel. I wish we could have met in person but either way, this was a really engaging program, and I really can't thank our panelists enough. So, I am going to open the floor up for questions until 7:00 pm but before I do, I am going to announce the final CLE code real quick and type in the chat.

[CLE INFORMATION OMITTED]

Let's get into some questions while we still have time. Send whatever questions you may have in the Q&A chat if you have them, and I can pull some from the chat now. Jonelle asks Katherine specifically, but also the panel generally, what efforts have been made to ensure kin placements?

DEPUTY COMMISSIONER KATHERINE STOEHR

Thank you for the question. I went over some of our efforts in my remarks, so we began with surveying our staff and asking what they thought about kinship placements and what kind of got in the way of using them, and we used that information to make a couple changes. I'll go through them here. A lot of it was trying to reduce paperwork and barriers to taking advantage of the kinship placement as opposed to a stranger's home. Some of the procedures and the approvals that you need to go through as a worker in order to access a kinship home can be cumbersome and so, we try to smooth that pathway by reducing the amount of approvals that are needed, that kind of thing.

We also looked at the licensing and how we go about licensing a kinship home, and tried to understand that some of the things that might be required for recruited homes, and the way that children could

live in a home, we could make some exceptions in the case of kin. So as an example, I have a son and a daughter, and they happen to have separate bedrooms in my home. But if they were going to stay with my parents that wouldn't be possible—that is not the size of the house that my parents live in, so they would need to share a bedroom. So, we looked to make some changes that account for siblings being in different ages and whether or not they are male or female, we could be more flexible in that regard.

We allowed greater flexibility for managers, with respect to reviewing criminal history that may be in place for any of the kinship providers. We trained our staff on how to use and review background checks with a greater level of sophistication, I do not know if any of you have actually looked at a criminal record here in New Jersey, but again, I have worked in a lot of states, and this one is extremely confusing to read. And so, trying to help our staff be able to navigate what exactly is that document saying to them, and to make sense of that and then make a determination about whether there is anything in there that presents a real barrier or not, was a huge piece of education. Those are just some of the highlights. All of our policies, with respect to kinship placements, are available online. All of our policies in general are available online, but those are searchable so I did not get into specifics here, but the documents themselves are on our website.

SAM ROMEO

Thank you, Katherine. We did have some questions that our journal members asked before the program. So, let's see. It really would not be 2022 if we did not have a question about COVID-19, so Allie asks, for Sylvia: how has the nature of the Division of Child Protection and Permanency's involvement with families evolved since COVID-19, and what are the kinds of challenges the pandemic has presented?

SYLVIA THOMAS

I do not want to take anything away from the toughness that was dealing with COVID-19 during this time, and the restrictions that it had on contact, but that was largely the struggle that I ran into with many of my clients and many of my kin family members, is that COVID-19 was a major, major barrier to visitation. It was a major barrier to maintaining contact with loved ones. And I think it is difficult to just criticize the agency for what's happened during this time period, but I think that it is important to still address where we believe that there can be some improvements for let's say the next pandemic because, I mean to pretend that there will not be, it would be foolish at this point. So you know, making preparations for how we deal with the issue of visitation and maintaining contact with families and also, the kind of “power” that resource parents have over dictating whether or not there could be access for families and also the fact that there was not a lot of attention paid to the exposure that possibly the child might have with a resource parent or family, versus what the danger would be for them to have contact with their family during that time. So, that's really a larger issue that I found during the pandemic: a parent's access to their children and kin visitation. That was a major, major barrier.

SAM ROMEO

Thank you, Sylvia, and we will try and end on a positive question. So, Laura asks: what is the most positive change that you have seen to child welfare policy in New Jersey or in any other state in recent years, and why was this so significant for children and families?

ALEXANDRA (PARENT ALLY)

I have one thing. In Missouri, and I believe California, you can go back after your parental rights have been terminated. You can go back to try to have the adoption reversed, and you can try to show that you are stable and safe, and possibly have your children returned to you. That is something that New Jersey does not have. To make such a permanent decision on a twenty-something-year-old's life, which is mine, forever—that is a forever decision here. And now, the woman I

am, I get to have my three little ones and not my two big ones, and I wish I could go fight for them just the same way I fought for the ones I have with me today.

SYLVIA THOMAS

So, the reinstatement issue is a major focus for LSNJ. We have a number of clients actually who are approaching us with what, at this point, are broken adoptions, and these clients are looking to even to establish custody, because they are struggling with standing, and even being able to manage to get custody of their children when they already have them in their care following a broken adoption. This is the major issue that I am seeing. I have at least four families right now, and we are trying to find some remedy for their historic TPR [termination of parental rights], considering what changes they have made in their life and the contact they now have with their child, to the point where the child is actually being parented by the parent who doesn't have the right to do so.

PROFESSOR RANDI MANDELBAUM

I am going to answer that with two things. I think that the focus on race equity that I see in New Jersey, there's still a lot of work that's being done by the Department, as the Deputy Commissioner has outlined, that's being done by the courts, and I think even the lawyers are getting trained on and trying hard. So, it is a multi-faceted issue, it is in our history, but I think that we are at least recognizing it and having some of those courageous conversations, and hopefully that work will continue.

I have also seen in the last few years another change, if I am just focusing on children. Some states have really encouraged the children and the youth to come to court and to be more involved in their case plans, where the decisions about their lives are being made. And I really think that is so critical. I also think the work that is being done at the

Department to the Youth Council²⁰, and some of the changes that the youth are recommending themselves and, those changes that are being made are also tremendous.

I just want to add my thanks to everyone on this panel. I mean, I am in awe of all of you and I am just so appreciative that that you all took the time to share your thoughts and your stories tonight.

SAM ROMEO

I echo those thanks. So, it looks like we're running low on time. Again, one last thank you and round of applause for our panelists. Thank you to Carol for helping us set up the CLE component. It has just been an absolute pleasure to host this event. Thank you all in the audience for joining us and be on the look-out for our journal's spring issue this year, if you want to read some really quality pieces about child welfare law in the United States.

PROFESSOR RANDI MANDELBAUM

And I just want to end by thanking Sam and Paige, and Carol, who really pulled this all together. We really wouldn't have had the night without them. They have been so thoughtful, so responsible, and just amazing.

PAIGE KIDWELL

Thank you so much, Professor Mandelbaum.

PROFESSOR RANDI MANDELBAUM

And with that, I guess we will say goodnight, and I hope everybody has a good night.

²⁰ *Statewide: Department of Children and Families (DCF) Office of Family Voice Youth Council*, N.J. YOUTH RES. SPOT: GET INVOLVED, <https://www.nj.gov/njyrs/get-involved/statewide/> (last visited May, 19, 2022).