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UNIVERSITY OF BALTIMORE SCHOOL OF LAW ■ CENTER FOR FAMILIES, CHILDREN AND THE COURTS

Expectations of the Child Welfare System and Family Court Must Shift

BY JANE M. SPINAK

What should be the aspirations and limits of the child welfare system? That was the question posed for our panel at the University of Baltimore School of Law Center for Families, Children and the Courts Urban Child Symposium, and myriad answers were offered.

I suggest three answers to the question of how best to address the needs of the child welfare system. First, we need to shift resources and attention away from a back-end system of child welfare to a front-end system of societal responsibility for families in poverty. Second, we need to abandon the idea that the child welfare system can produce well-being and raise our expectations that the child welfare system can secure safety and stability.

Finally, we need to reduce—not increase—the role of Family Court in supervising the child welfare system. These may not be conventional responses, but I hope they will spark further discussion about our expectations of the child welfare system.

In many ways, our child welfare system has become a substitute for the other supports in our country that are lacking for our most fragile families. Instead of well-designed and well-resourced child care, schools, medical and mental health care, substance abuse treatment, affordable housing and employment opportunities, we wait for families without these supports to fail and then ask the child welfare system to step in. Like the parable of the fisherman and the babies, instead of trying to fish the babies out downstream, we need to stop putting them in the water upstream.

Even providing preventive services is too late. In New York City, we vastly have increased the number of families receiving preventive services—a good thing compared to foster care for most children—but still a service only available for families already identified as at risk.

The risks are substantial. Over half of New York City's children are receiving food stamps. In 2008, 35 percent of the city's Latino children and 29 percent of its African-American children lived in households earning at or below the federal poverty level. In the Bronx, the borough with the highest risk to child well-being, over 35 percent of families pay more than half their income for housing. Not surprising, Latino and African-American children populate more than 75 percent of the foster care system. This, however, is not a New York City problem alone. According to UNICEF's 2009 Report Card on inequality for children in the 25 richest countries of the world, children in the United States ranked 23rd in material well-being, 19th in education well-being, 22nd in health well-being and in the bottom three countries for overall inequality. This inequality fills our child protective sys-

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“Place Matters”—A Framework for Maryland's Child Welfare System is Making a Difference

BY BRENDA DONALD

The work of a child welfare agency is non-stop, difficult, emotional and often thankless. Those conditions are trivial compared to the circumstances of many children and families who flow in and out of a child welfare system that does not always have the ingredients for a happy ending.

As vice president of the Annie E. Casey Foundation's Center for Effective Family Services and Systems, I am helping to guide the Foundation in its efforts to support human services reform across the country. As the former Human Services Secretary for the Maryland Department of Human Resources (DHR), however, I experienced firsthand the frustration of recognizing how long it takes a large agency to implement the kinds of reforms that can lead to happier endings. It can be done—as evidenced in the measures that we put in place in Maryland to improve the prospects for children placed in our custody and to prevent them from winding up there in the first place.

When I was appointed Human Services Secretary by Maryland Governor Martin O'Malley in February 2007, I encountered a culture that strongly suggested foster care was an acceptable long-term solution for children in need. The term “permanency” was seldom used, and the system seemingly resisted seeing foster care and group home placements as temporary safe havens.

A comprehensive framework for reform was needed, which we launched, accompanied by a credo that summed up the whole reason

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Symposium Calls for Fixing Urban Child Welfare System


The University of Baltimore School of Law Center for Families, Children and the Courts' (CFCC) third annual Urban Child Symposium focused on families engaged in the child welfare system and the ongoing reform of that system. More than 200 judges, attorneys, social workers and other professionals attended the symposium, "The Urban Child in the Child Welfare System: From Fracture to Fix," on April 7, 2011.

In his keynote address, Shay Bilchik, professor and director of the Center for Juvenile Justice Reform at the Georgetown University Public Policy Institute and former CEO of the Child Welfare League of America, called for reengaging families as part of the child welfare team and emphasized the importance of family-friendly public policies that aim to keep families together.

In this issue we offer Professor Bilchik's insights on the essential role of the family in child welfare practices as well as the views of other symposium participants, including the following:

- **Brenda Donald**, vice president, Center for Effective Family Services and Systems, Annie E. Casey Foundation, who discusses the child welfare system's responsibility to intervene.
- **Jane Spinak**, the Edward Ross Aranow clinical professor of law, Columbia Law School, who writes about the most effective ways to address the needs of the child welfare system.
- **Mitchell Y. Mirviss**, partner at Venable, LLP, who questions whether due process is the right model for child welfare reform and accountability.
- **Richard Barth**, dean of the University of Maryland School of Social Work, who discusses the vast opportunity to improve urban child welfare practices. ■

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Child Welfare Practices Continue to Improve

BY RICHARD P. BARTH

A vast opportunity exists to improve urban child welfare practices, especially with regard to those that may involve the intersection of social work and the law.

One important arena for improvement is the education of those who work with child welfare services. About 60 percent of child welfare workers nationally have no undergraduate or graduate degree in social work. Maryland, like many other states, is changing that and now, for example, requires all child welfare supervisors to be licensed clinical social workers.

A growing proportion of incoming child welfare workers in Maryland has a Masters in Social Work (MSW). This is, in part, due to an innovative partnership between the University of Maryland, Baltimore City Department of Social Services (BCDSS) and a federal grant to provide graduate students with a focused learning experience in "urban child welfare" and with positions at BCDSS upon graduation. The students receive additional training in child welfare policy, family-centered practice, education, motivational interviewing and other interventions useful in urban settings.

These changes are a small part of the growing success of BCDSS, which recently has been recognized for leadership in Maryland for reducing the number of children in foster care and group care. Developmental and child welfare scholars have called for a reduction in group and residential care placements for younger children and, more recently, for the vast majority of all children. A forthcoming study by Assistant Professor Bethany Lee at the University of Maryland indicates that the procedures recently developed by the Maryland Department of Human Resources (DHR) and employed in Baltimore City and other counties are successful in generating discussions between family members and a range of service providers. This interaction and cooperation facilitates more expeditious transitions from group care.

Another opportunity is for DSS to expand support to foster and adoptive parents, given the increase in the number of children living with foster families or leaving foster care to live with adoptive parents. One such effort, supported by the Maryland DHR and the University of Maryland School of Social Work, is a project called KEEP, a foster parent training and support intervention for youth ages 5 to 12. KEEP involves the implementation of a support group format combined with behavioral parent management training to improve foster parents' skills. If outcomes are consistent with prior research in San Diego and earlier pilot work in Baltimore, Montgomery and Harford counties, KEEP eventually can lead to a reduction of child behavioral and emotional problems and the timely achievement of permanency outcomes for children. The opportunities for KEEP to benefit foster families and children in Baltimore City especially are significant given the BCDSS' significant commitment to provide care for children and adolescents in family-like settings.

Another area requires attention because it increasingly is problematic for child welfare workers—the over-reliance on psychological evaluations that heavily and improperly emphasize "attachment theory" in recommending the resolution of placement questions. Attachment theory is derived originally

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A Framework for Maryland's Child Welfare System *from pg. 1*

for doing things differently: “Nothing matters more to a child than a place to call home.” The effort was dubbed simply, “Place Matters.”

The human services system no longer can turn a blind eye to research demonstrating that children who grow up with permanent families are more likely to succeed later in their lives. “Place Matters” is a data-driven and results-oriented child welfare reform initiative that aims to find permanent families for foster children, the vast majority of whom have been victims of abuse, neglect, or abandonment.

Four key principles guide this effort:

- Keep a child with his or her family as long as it is safe to do so;
- When a child must come into foster care, place that child with his or her own relatives whenever possible;
- Place a child as close to his or her original community as possible; and
- Minimize the length of stay for children who do spend time in foster care.

It is also critical to include family members in the decision-making process from the start.

Thanks to “Place Matters,” the number of children in foster care in Maryland steadily has decreased since 2007, from 10,300 to fewer than 8,000 today. Maryland significantly reduced its foster care population largely by helping children exit the system through reunifications, adoptions and guardianships. Between 2007 and 2010, nearly 9,000 children left foster care for permanent families. During that same period, approximately 6,000 children *entered* the system, many for relatively short lengths of stay.

If Maryland maintains its laser focus on connecting children to permanent families *and* strengthens its front-end prevention efforts, the state could reduce its foster care population even further. A number of states have implemented a process called differential or alternative response. In cases where there are no immediate safety concerns, this approach encourages child welfare professionals to work with vulnerable families to assess their needs and build upon their strengths to keep children safely at home to the extent possible. For the last three years, DHR has tried and failed to get alternative response legislation adopted in Maryland. It is time for that to change.

Under “Place Matters,” DHR has implemented several measures to support alternative response and other prevention measures, including its family-centered practice model, the provision of in-home services and a wrap-around services program to provide community-based prevention services for vulnerable families.

“Place Matters” is a data-driven and results-oriented child welfare reform initiative that aims to find permanent families for foster children.

Besides focusing on prevention, Maryland’s child welfare reform agenda must emphasize better outcomes for children in foster care. Research shows that the longer children remain in the foster care system, the worse off they are on key measures of health and mental health, educational achievement, and social and emotional well-being. We can do better. Over the last 20 years, we have learned much about evidence-based practices—programs proven effective in reducing

drug abuse, school dropout rates and teen pregnancies. Although such practices targeted specifically at the foster care population are limited, the Annie E. Casey Foundation is committed to helping the child welfare field adapt and expand the use of evidence-based practices and policies.

The Foundation also is committed to helping child welfare systems achieve better outcomes for older youth, many of whom—despite efforts to promote permanency—will age out of foster care. In Baltimore City, 60 percent of children in the foster care system are age 13 and older. Maryland is one of a handful of progressive states that provides foster care support up to age 21 rather than 18, but 600 to 700 young people still leave the system each year without a connection to a permanent family to provide the support that is critical during this vulnerable time in their lives. It is imperative that we provide these youth with the resources and opportunities they need to help them become successful independent adults.

As Human Services Secretary, I chaired a committee of the Governor’s Children’s Cabinet for the “Ready by 21 Plan,” which establishes benchmarks for age-appropriate services and supports in health/mental health, education/training, employment and financial literacy. DHR also has worked to identify the core policies and practices that must be implemented to help older youth transition successfully to adulthood.

Of course, the child welfare agency itself cannot produce better outcomes for children and youth in its care. That is where the child welfare system, including the courts, schools, mental health and health care entities, communities, and most importantly, families comes into play. If Maryland wants fewer kids in foster care and better outcomes for those in care, the entire system will have to step up. ■



Brenda Donald is Vice President of the Center for Effective Family Services and Systems at the Annie E. Casey Foundation, a private philanthropy dedicated to helping build better futures for disadvantaged children in the United States. She previously served as Secretary for the Maryland Department of Human Resources (DHR).

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tems. We will continue fishing babies out of the water until we stop asking our child welfare system to act as a substitute for equality.

This leads to my second response. We are not only asking too much from the child welfare system, we have begun to expect the wrong outcome. After the passage of the Adoption and Safe Families Act of 1997 (ASFA), the Administration for Children and Families purposefully added well-being to the goals of safety and permanency for the child welfare system, significantly changing our expectations of what a child welfare system can achieve. In one of the most important books in recent years on child welfare policy, *Beyond Common: Child Welfare, Child Well-Being, and the Evidence for Policy Reform*, the authors, Fred Wulczyn, Richard Barth, Ying-Ying T. Yuan, Brenda Jones Harden and John Landsverk, challenge this “common sense” expectation, in part because the idea of well-being has become shorthand for the many components in a child’s life that are beyond the capacity of the child welfare system to provide, including health, mental health and education. They also are concerned, however, that by separating safety and stability into a different category from well-being, the role of a safe and stable home as central to well-being is diminished. The child welfare system has made only incremental improvements in recent years on safety and stability. Making the child welfare system accountable for improving safety and stability is a measureable and realistic goal and returns child welfare to its central but limited mandate. At the same time, the child welfare system can stop pretending it has the capability to fill the gaps in meeting the needs of the children it serves and instead advocate for society to fill those gaps.

This leads to my last response. Just as we have diverted the child welfare system from its fundamental job, we also have changed the role of the Family Court in child welfare. Courts do their best work making adjudicative decisions. In the child welfare context, that means determining first and foremost whether the state properly has intervened in a family’s life in order to keep a child safe.

The questions the court must answer include:

- Whether the parent’s actions have caused harm to the child under the state’s definition of abuse or neglect;
- Whether the state has offered services that would have prevented the need for court intervention;
- Whether the child can stay home safely during the pendency of the proceedings or needs to be placed in an alternative living arrangement;
- If a determination is made that the parent maltreated the child, what disposition is the least detrimental and in the best interests of the child; and whether the permanency plan for the family is appropriate.

Family Court judges, like all other judges, can make these decisions after lawyers ask questions, litigants give answers, and the judge can weigh the evidence presented. In recent years, however, we have asked judges to cross role boundaries to participate in hearings in a much more informal and inclusive way, believing that when judges intervene more purposefully in the lives of the families before them, they will produce better results. This approach shifts not only professional boundaries but also resources away from human resource providers in the community and in child welfare agencies that could help to prevent families from ever reach-

ing court. Federal resources and foundation support have fueled court-based approaches to solving problems.

At the same time, court systems have increased their budgets or shifted resources to fund court personnel who are case managers, conference coordinators, or treatment team members. Situating resources at the back-end of the system keeps families enmeshed in court processes far longer than may be necessary. Even when back-end programs work for some families, creating a system where the best resources are only available once the family reaches court subjects families to far more state intervention and control than if those same resources are provided at the front end.

Expanding the expectations and role of the child welfare system and the Family Court has yet to result in significant positive outcomes for children and families. We need, instead, to set limited and realistic expectations both for what the child welfare system can accomplish and what the Family Court’s role should be. At the same time, we must recognize that until we provide meaningful health care, education and child care for all children and promote affordable housing and sufficient employment in our country, the child welfare system will continue to do little more than fish babies out of the water. ■



Professor Jane M. Spinak is the Edward Ross Aranow Clinical Professor of Law at Columbia Law School. She co-founded the law school’s Child Advocacy Clinic, which currently represents adolescents aging out of foster care. She co-chairs the Task Force on Family Court in New York City that was recently established by the New York County Lawyer’s Association.

The Vital Work of CfCC

The Center for Families, Children and the Courts (CFCC), a non-profit organization, offers to Unified Family Courts (UFCs) strategic planning and technical assistance, as well as evaluations of the effectiveness of these courts and their related programs. Other CFCC services include compiling surveys and reports, formulating performance standards and measures, providing training and workshops and organizing conferences for the judicial, legal and court communities. CFCC relies on the support of foundations, grants and partners to fulfill its mission to improve the lives of families and children and the health of communities through family court reform.

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The Family Serves an Essential Role in Effective Child Welfare Practice

BY SHAY BILCHIK

Most would agree that our relationships with our families have the greatest significance in our lives. Our families serve as the anchor in our lives and as the support system for much of what we accomplish. Yet many youth involved with child welfare and juvenile justice lose this sense of belonging as they and their families experience these systems.

Recognizing this problem, the Center for Juvenile Justice Reform at Georgetown University's Public Policy Institute recently hosted a symposium to release a paper titled, "Safety, Fairness, Stability: Repositioning Juvenile Justice and Child Welfare to Engage Families and Communities." As noted by the authors of the paper, Joan Pennell, Carol Shapiro and Carol Spigner, "for youths to grow into responsible and productive adults, they need a foundation of safety, fairness, and stability." Further noting that "this foundation is especially weakened for youths involved with both child protection and juvenile justice," they make the case for devoting our efforts to maintaining youths' connections to their homes, schools and communities in an appropriate manner, and by doing so give youths who are too often alienated from their families "a sense of belonging, competence, well-being, and purpose."

The need for more effective engagement of families also demands more effective cross-system policies and practices, as it is well known that the children we serve are often known to multiple systems of care, such as child welfare, juvenile justice, education and behavioral health. Families struggle to understand these systems, both individually and collectively. Therefore, to do this work well

requires the sharing of information about the youths, their families and their system experiences—and the greater sharing of resources and case planning and management responsibilities. At one level, this information sharing takes the form of improved programming practices that respect the role of family in the development of our case plans and ongoing case management, such as family group conferencing, team decision-making and Functional Family Therapy. This includes the ways in which we help young people who are aging out of these respective systems re-engage with their families, or as some put it, navigate the issues their families might still present. At another level, this necessitates the inclusion of youths and families as expert advocates for the changes that are needed, particularly as we develop new policies that better support family engagement and respect for the voices of youths and families in decision-making.

As stated in my presentation at the recent symposium, "The Urban Child in the Child Welfare System: From Fracture to Fix," sponsored by the University of Baltimore School of Law Center for Families, Children and the Courts (CFCC), my hopefulness is supported by the fact that there is a different kind of field-building underway. It is no longer just the child welfare field, the juvenile justice field, the behavioral health field or the education field. These fields are viewing and doing their work in a different way—across systems. This change in perspective is essential, and the work being undertaken across systems to achieve better outcomes reveals a very specific effort to work more effectively to create stronger connections for the children and youths in those systems—connections that lead

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from psychoanalytic thinking, which largely has been discredited. Although attachment theory has many more proponents than does psychoanalytic theory, its research tenets are not strong. Recent research clearly has shown that even the supposedly prototypical problem of "indiscriminant friendliness," in which children with insecure attachments may treat strangers as if they are family members, is clearly not related to measures of attachment. Instead, indiscriminant friendliness is related strongly to a more general measure of poor self-regulation.

Child welfare workers often make recommendations that are based on a range of observations, discussions and considerations of cases. These should not be overridden based on psychological evaluations that are heavily weighed down by the dubious science underlying many assessments of children's attachment.

Indeed, there appears to be no evidence indicating that the outcomes of cases, especially regarding children's safety, are improved when they have psychological examinations. Consequently, until

there is greater evidence that these psychological evaluations improve decision-making, the conclusions from psychological evaluations should not be given more weight and credence than a thorough psychosocial evaluation by child welfare workers. We certainly could save money and, very likely, improve outcomes if we move away from the use of this tool. ■



Richard P. Barth, PhD., MSW, is Dean and Professor at the University of Maryland School of Social Work. He has published many articles and books based on child welfare services research studies that he has led and has won awards for this work from the Society for Social Work Research, the National Association of Social Workers and the American Public Human Services Association. He is also the President of the American Academy of Social Work and Social Welfare.

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to, or help restore, significant family relationships that provide safety, fairness and stability in a meaningful way.

This is not, however, easy work. It is about system and culture change—a change in the way we view the children, youths, and families with whom we work. As suggested in my foreword to the paper referenced above, this requires us to understand better and then act upon the idea that the families and communities from which the children in our care come are not enemy territory. We must understand that whether it is children and youths in our child welfare or juvenile justice systems, their families have both strengths and weaknesses. In working with them, we need to identify and build on those strengths and help them to overcome their weaknesses. This requires that we work in a respectful and supportive way with the families of the children and youth who have come to our attention, providing the family-centered and family-driven resources needed to serve the child's and family's best interests.

This is challenging to do. It is about building bridges between workers and the families they serve; between the child welfare, juvenile justice, behavioral health, and education systems and communities; and between systems. To accomplish this, we need to create a shared vision, in part by identifying the strengths and weaknesses of our service systems and by developing greater levels of trust and cooperation among them.

This is what is required for us to be successful in better engaging families and the youths to whom they are connected. As the authors and presenters so powerfully conveyed at the Georgetown and CFCC symposia, we cannot be successful in reconnecting our children and youth to their families and communities unless we think about this work differently, through the lens of the family and from a truly family-centered perspective. This is a difficult journey, but one absolutely necessary for us to achieve the better outcomes we desire for the children, youths and families we serve. ■



Shay Bilchik is the founder and Director of the Center for Juvenile Justice Reform at Georgetown University's Public Policy Institute. He was previously the President and CEO of the Child Welfare League of America and Administrator of the Office of Juvenile Justice and Delinquency Prevention in the US Department of Justice.

Is Due Process the Best Model

By Mitchell Y. Mirviss

It's not easy to turn around the *Titanic*." Those candid words years ago from then-Secretary of the Maryland Department of Human Resources Christopher McCabe captured the slow pace of child welfare reform efforts. Unfortunately, that malapropism applies to the broader child welfare reform efforts in the past three decades.

The problems of child welfare and foster care have not suffered from a lack of attention. Here in Maryland, the modern Children in Need of Assistance (CINA) system is the product of a series of federal and state reform efforts over thirty years. Until recently, we have witnessed scant results. Did we follow the wrong track when the current system was designed back in the 1970s? Is any other approach even theoretically possible and feasible?

I raise these questions as someone involved with the original federal reform effort who then worked on implementing the reforms in Baltimore. To some extent, this is a confession of a child advocate—it is time we take a step back and examine where we are.

A predominant thrust of the reform effort has been due process expansion. If you provide rights to children and families and a judicial/administrative forum to enforce those rights, the chronic problems of child welfare are fixed. We spend tens of millions of dollars each year in this State on due process as a result. Every reform effort has tightened and expanded the requirements: more frequent court reviews, more mandated elements in case plans, and more efforts to improve the courts' problem-solving ability.

Has this worked? Has the juvenile court become the place where complex family problems are solved, best practices in case work are fostered, families receive needed services that allow prompt reunification, and children are moved through the system expeditiously and wisely? As a former Children in Need of Assistance (CINA) attorney who has represented hundreds of children in the Baltimore City Juvenile Court, I question the effectiveness of the due process model. It has serious flaws, diverts resources, and has not worked as we imagined.

In the 1970s, it was considered a national scandal that 500,000 children were living in foster care (as of 1976). According to the U.S. Department of Health and Human Services (HHS), there were 505,000 children in foster care in 2006—30 years and little progress until very recently (although the number dropped to 424,000 by 2009). Large reductions occurred in Baltimore in the last four to five years, but only after increases of 500 percent during the prior decade.

In 1978, the Children's Defense Fund published a seminal study, *Children Without Homes*, which pushed Congress to enact comprehensive reforms. Its comments remain apt today:

"[D]espite their far-reaching powers, the states have generally failed to play an active role in addressing the problems of children in out-of-home care. Too much of the state's attention has been focused on children at the point of removal from home—on just finding a place for them to live. Too little attention has been given to services

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that might eliminate the need for placement. Too little attention has been paid to the quality of care and services the children and their families receive. And too little attention has been given to defining who has ultimate responsibility for children out of their homes in the face of a complex delivery system that often involves courts, one or more public agencies, private agencies from whom public agencies purchase services, and state and county political divisions.”

Sound familiar?

We see this in countless areas. Take the issue of parental visitation with children who have been removed from their homes and are living in foster care. A five-year longitudinal study of children, *Children in Foster Care: A Longitudinal Investigation*, has found the single best predictor of whether children return home is frequent and regular visitation between parents and children. One would think that, in this day and age, that issue is handled well. Yet:

- The 2009 Children and Family Services Review (CFSR) for Maryland found visitation was a strength in only 37 percent of the cases, down from 67 percent five years earlier. Parents had weekly visits in only 22 percent of the applicable cases.
- For the first half of FY2009, the Baltimore City Department of Social Services (BCDSS) reported that it made reasonable efforts to facilitate weekly parental visits in only 34 percent of all reunification cases.

We have all of the due process protections in the world, and yet we still cannot do the one simple thing that we know is the key step for prompt reunification.

Admittedly, Baltimore has seen real progress in recent years. The number of children in care has dropped, caseloads are a fraction of what they were in the 1980s, group homes have closed, and more children are in family settings. These are real accomplishments. But what we are not seeing is families getting the kinds of services (housing, comprehensive in-home interventions, economic assistance, etc.) they were not receiving before. So the question remains: what is wrong?

Thirty-two years ago, Congress passed the Adoption Assistance and Child Welfare Act of 1980, P.L. 96–272. This comprehensive reform statute created the child welfare system as we currently know it: funding for services to prevent family disruptions, to avoid placements into foster care, and to promote reunification; federally-funded adoption subsidies; and a panoply of due process

requirements that were the heart of the reforms. As a result, we now have substantial due process protections, including attorneys for the children and their parents, Department of Social Services attorneys, juvenile court judges and masters, etc. We should think about whether some of those resources could be directed to services to address poverty-related conditions instead. Or we might think about whether resources should be allocated to a system of achieving better problem-solving by caseworkers and supervisors. Housing remains a critical barrier to reunification, but what programs exist today to target housing for child welfare? Substance abuse is the only service that receives meaningful systemic attention.

The paucity of concrete services is compounded by the intrinsic

limitations of the judiciary. Judges and masters are swamped with cases. The court system is not well-suited to assessing and solving chronic problems of family dysfunction, poverty and agency torpor. In Maryland, judges often want to defer to agency discretion, viewing the agency as the experts and facing the separation of powers arguments often raised by the state. To the extent that Congress has assumed the courts happily

enforce the P.L. 96–272 reforms, they are mistaken. The courts can make big-picture decisions—whether to remove children, reunite them or terminate parental rights—but they do not embrace the nitty-gritty of child welfare.

Other models are available. What if, instead of courts reviewing cases every six or ten months, multi-disciplinary panels (attorneys, psychologists, pediatricians, social workers) possess real supervisory and problem-solving authority? That model retains accountability and focuses on problem-solving in a much less adversarial fashion. The court’s role is limited to what it does best—decide the big-picture questions regarding the child’s fate. What if the savings are plowed into real services?

If you have a magic wand, is this the system you would create for serving abused and neglected children? And if it is not, what can we do about it? Just because we have done it this way for 30 years does not mean we should assume that better options do not exist. ■

The due process model has serious flaws, It diverts resources, and has not worked as we imagined.



Mitchell Mirviss is co-counsel for the class of foster children in the custody of the Baltimore City Department of Social Services, which includes over 4,000 children, in the federal class action, *L.J. v. Dallas*. Since 1988, a federal consent decree has required comprehensive reforms of the Baltimore child welfare system. He currently is a partner at Venable LLP.

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