

The Guardian

The Guardian is a quarterly law journal published by the National Association of Counsel for Children exclusively for its members.

IN SEARCH OF REPARATORY JUSTICE:

Stephanie Franklin presented NACC's July webinar on this topic. [Click to view](#)

Don't Minimize the Moment: Truth, Reparatory Justice, and Healing for Black Families who are Descendants of Captive and Enslaved Africans in the U.S.

A Child-Family Welfare Act for Black Descendants of Captive and Enslaved Africans in the U.S.

By **Stephanie Franklin**

I. Introduction

"Recognition, Justice, and Development"

— United Nations International Decade for People of African Descent • 2015–2024

The search for reparatory justice for Black people who are descendants of captive and enslaved Africans in the U.S. (DCAUS)¹ has been a continuous struggle, codified in the United Nations' International Decade for People of African Descent's theme — "*recognition, justice, and development.*"² The convergence of COVID-19 and its aftermath (Black death at the highest disproportionate rates of any racial/ethnic group,³ exclusion from Paycheck Protection Program (PPP) loans for Black-owned businesses,⁴ permanent loss of Black-owned busi-

1 DCAUS is a term coined by this author who is a DCAUS woman. It is a derivative of the term descendants of Africans enslaved in the U.S. (DAEUS) coined by Professor Vernellia Randall, Professor Emeritus, University of Dayton School of Law. DCAUS was created to include "captive," signifying the political condition of the enslaved African when trafficked from Africa to the Americas. The term DCAUS will be fully defined in Section II of this article.

2 United Nation. *International Decade for People of African Descent 2015-2024*. <https://www.un.org/en/observances/decade-people-african-descent> (last visited Aug. 13, 2020).

3 The COVID Tracking Project. *COVID-19 is affecting Black, Indigenous, Latinx, and other people of color the most*. THE ATLANTIC. <https://covidtracking.com/race> (last visited Aug. 15, 2020).

4 Center for Responsible Lending. *The Paycheck Protection Program Continues to be Disadvantageous to Smaller Businesses, Especially Businesses Owned by People of Color and the Self-Employed*. May 27, 2020. https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-cares-act2-smallbusiness-apr2020.pdf?mod=article_inline (last visited Aug. 15, 2020).

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nesses,⁵ Black unemployment,⁶ and increasing Black mental health rates⁷); the execution of George Floyd and Breonna Taylor by police; and the brutal murder of Ahmaud Arbery by white vigilantes spotlighted the historic struggle that Black people and, more specifically, DCAUS peoples, have experienced in this country. These events precipitated a racial uprising that has un-muted the resounding cries of the Ancestors of DCAUS peoples that has persisted for centuries without recognition or repair.

The stand for justice, equity, and humanity has jolted a movement that demands action by the U.S. to repair the harm that happened over 400 years ago when our Ancestors were first brought to these shores circa 1619. Black people are calling for the dismantling of racist poli-

This moment is a racial reckoning, demanding reparatory justice for DCAUS peoples in alignment with the theme of the Decade — “recognition, justice, and development.”

cies and practices embedded in the structures of systems and institutions⁸ and the destruction of racist icons⁹ that are reminders of an ugly, torturous past that has remained a constant for centuries.

The policing issue has taken center stage. The visceral effect of seeing someone murdered on television while he calls out to his dead mama ignites emotions difficult to capture in words. However, this centering has over-shadowed the less sensationalized struggles that are wrought with pain and despair for DCAUS families and children — e.g. lead exposure and dirty water impacting cognitive functioning in children; psychotropic over-drugging of children in foster care; family separation and trauma; and the disproportionate involvement in the child welfare system, to name a few — all adornments of long-standing, racist structures that positioned DCAUS peoples to be the bottom caste.

This moment is a racial reckoning, demanding reparatory justice for DCAUS peoples in alignment with the theme of the Decade — “*recognition, justice, and development.*” This article will address three (3) essential questions:

- *Who are descendants of captive and enslaved Africans in the U.S. (DCAUS)?*
- *Why reparatory justice for DCAUS peoples?*
- *What does reparatory justice look like for DCAUS children and families?*

II. Who are Descendants of Captive and Enslaved Africans in the U.S. (DCAUS)?

Defining the DCAUS community is the foundation of establishing the need for reparatory justice that is specific to this community. Historical context in the shaping of culture, identity,

5 Kristopher J. Brooks. “40% of black-owned businesses not expected to survive coronavirus.” CBS NEWS. Jun. 22, 2020. <https://www.cbsnews.com/news/black-owned-businesses-close-thousands-coronavirus-pandemic/> (last visited Aug. 15, 2020).

6 Elise Gould and Valerie Wilson. *Black workers face two of the most lethal preexisting conditions for coronavirus – racism and economic inequality.* ECONOMIC POLICY INSTITUTE. Jun. 1, 2020. <https://www.epi.org/publication/black-workers-covid/#:~:text=The%20pandemic%20and%20related%20job,rates%20than%20their%20white%20counterparts> (last visited Aug. 15, 2020).

7 UNIVERSITY OF MICHIGAN SCHOOL OF PUBLIC HEALTH. *Surviving the Coronavirus While Black: Pandemic’s Heavy Toll on African American Mental Health.* May 20, 2020. <https://sph.umich.edu/news/2020posts/pandemics-toll-on-african-american-mental-health.html> (last visited Aug. 15, 2020).

8 Katrina vanden Heuvel. *Opinion. How we can start dismantling systemic racism.* WASH. POST. Jun. 9, 2020. <https://www.washingtonpost.com/opinions/2020/06/09/how-we-can-start-dismantling-systemic-racism/> (last visited Aug. 15, 2020).

9 Camille Squires. *All the Monuments to Racism That Have Been Torched, Occupied, or Removed.* MOTHER JONES. Jun. 12, 2020. <https://www.motherjones.com/crime-justice/2020/06/all-the-monuments-to-racism-that-have-been-torched-occupied-or-removed/> (last visited Aug. 15, 2020).

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and lineage fortifies an experience of a people. It allows deeper understanding of their current state, and their positioning in a culture, nation, and the world.

With the increased migration of Black people from the Diaspora and Continental Africa, delineating the culture and identity of the Black/African American person is significant in the quest for reparatory justice within the context of U.S. history. Blackness is multi-dimensional¹⁰ and DCAUS peoples are a specific ethnic group within the Black/African American racial category. Our Ancestors built the U.S. off their backs, positioning this country to be the wealthiest country in the world¹¹, and died doing it, blood and bone in the ground. Longer than most white, Latinx/Hispanic, and Asian communities, DCAUS peoples have been here for centuries.¹²

To that end, the specific criteria to define a person as DCAUS is someone who:

- Has a parent, grandparent, or great grandparent born in the U.S. prior to 1965;¹³
- Had at least one Ancestor who was enslaved in the U.S.;¹⁴ and
- Has consistently identified in the Census as Black, African American, Negro, or Colored.¹⁵
- If biracial, one of the individual's grandparents must meet all three (3) criteria.¹⁶

Unmatched by any other group in the U.S., DCAUS peoples have a unique and specific history in this country tied to a sustained and continuous dehumanization,¹⁷ oppression, and harm that has endured for centuries, creating injury that needs repair. This injury, concretized by systemic and structural racism;¹⁸ implicit and explicit (individual prejudice) bias;¹⁹ intentional exclusion and marginalization; and a blending of “people of color”²⁰ communities who

10 White, Native American, Asian, and Latinx/Hispanic communities are multi-dimensional as well. Within each of the white, Native American, and Asian “racial” categories (recognizing scholars argue that race is a social construct) are various ethnicities and nationalities, and within the Latinx/Hispanic ethnic group, different races.

11 Edward E. Baptist. *THE HALF HAS NEVER BEEN TOLD: SLAVERY AND THE MAKING OF AMERICAN CAPITALISM*, Back Cover (Basic Books, LLC, Paperback Edition, 2016).

12 HISTORY. *America's History of Slavery Began Long Before Jamestown*. Updated Aug. 26, 2019. <https://www.history.com/news/american-slavery-before-jamestown-1619> (last visited Aug. 15, 2020).

13 Prior to the passage of the Immigration & Naturalization Act of 1965 (known as the Hart-Celler Act), the numbers of Black people from the Caribbean and continental Africa were nominal in the U.S. The numbers of Black people from the Caribbean increased with the passage of the Hart-Celler Act. Tod G. Hamilton. *IMMIGRATION AND THE REMAKING OF BLACK AMERICA*, at 24-26. (New York: Russell Sage Foundation, 2019) (referencing U.S. Census and 2014 American Community Survey, Figure 2.1 *Growth of the Black Immigrant Population by Region of Birth 1960-2014*).

14 The DCAUS criteria is based on the work of Dr. William A. “Sandy” Darity, Jr. professor at Duke University, economist, Director of the Samuel Dubois Cook Center on Social Equity, and father of stratification economics. <https://sanford.duke.edu/articles/faculty-profile-william-darity-jr-stratification-economics-and-leadership-duke-and-beyond> (last visited Aug. 10, 2020); Noel King. “From Here to Equality’ Author Makes A Case, And A Plan, For Reparations.” NPR. Jun. 17, 2020. <https://www.npr.org/2020/06/17/879041052/william-darity-jr-discusses-reparations-racial-equality-in-his-new-book> (last visited Aug. 10, 2020); Wesley Lowery. “Which black Americans should get reparations?” *The Washington Post*. Sep. 18, 2019. https://www.washingtonpost.com/national/which-americans-should-get-reparations/2019/09/18/271cf744-cab1-11e9-a4f3-c081af26de70_story.html (last visited Aug. 15, 2020); and the creators of the American Descendants of Slavery (ADOS) movement, Yvette Carnell (@BreakingBrown) and Antonio Moore (@ToneTalks). <https://ados101.com/> (last accessed Aug. 10, 2020).

15 Carnell and Moore, *supra* note 14, at 4.

16 *Id.* Some descendants of captive and enslaved Africans were able to “pass.” Passing is when a Black person who has phenotypically European features and very fair skin chooses to “pass” as white and their race/ethnicity is not readily apparent to everyone. See Olivia Mancini. *Passing as White: Anita Hemmings 1897*. Vassar, *The Alumnae/i Quarterly*. Winter 2001, Vol. 98, Issue 1. <https://vq.vassar.edu/issues/2002/01/features/passing-as-white.html> (last visited Aug. 10, 2020).

17 Phillip Atiba Goff, Matthew Christian Jackson, et. al. *The Essence of Innocence: Consequences of Dehumanizing Black Children*, at 527. Feb. 24, 2014. <https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf> (last visited Aug. 15, 2020).

18 Keith Lawrence, Aspen Inst. on Comm. Change, and Terry Keleher, App. Research Ctr. At UC Berk., Race and Public Policy Conference, *Structural Racism* (2004). <https://www.racialequitytools.org/resourcefiles/Definitions-of%20Racism.pdf> (last visited Aug. 15, 2020).

19 Georgetown Univ. Ctr. for Cultural Competence, Ctr. for Child & Human Development. *Two Types of Bias*. <https://nccc.georgetown.edu/bias/module-3/1.php> (last visited Aug. 15, 2020).

20 The term “people of color” is a popular term that should be eliminated in discussing varied racial and ethnic groups in this country. It erases and flattens their individual histories, lived experiences, and relationships to the U.S.

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embrace anti-Blackness and benefit from white adjacency,²¹ including some Black immigrants and their descendants,²² cemented the DCAUS community as the bottom caste in the country they built, making DCAUS increasingly vulnerable to public systems.

III. Why Reparatory Justice for DCAUS Peoples? A History of Violence, Family Separation, and Dehumanization

“The slave family experienced a markedly different form of social organization than any other group on American soil. The individual and family were socialized to endure and survive under extremely oppressive conditions. Generations were born, lived, and died enslaved in what has been purported to be the freest society in the history of the world, and yet their struggle for freedom, respect, and dignity was attacked at every turn. These attacks continued long after slavery officially ended.”²³

“The Maafa” & The Middle Passage

The largest forced migration in human history,²⁴ the African Holocaust or what DCAUS scholar Dr. Marimba Ani coined, “The Maafa,”²⁵ was the beginning of the sustained subjugation our African Ancestors would endure for centuries. They were captured and sold to Europeans²⁶ by other Africans²⁷ and trafficked²⁸ to the Americas as early as the 16th century for enslavement.²⁹ They were held in “slave castles/fortresses” for months, shackled in cramped, dank dungeons that were poorly ventilated and littered with human waste.³⁰ And for those who revolted against their capture, they would be placed in small pitch black spaces. Women and girls were brutally and repeatedly raped by white enslavers³¹ before they would become human cargo in a months-long journey, known as the “Middle Passage.”³²

- 21 Ana Cecilia Pérez. Opinion. *As Non-Black POC, We Need to Address Anti-Blackness*. YES! Jul. 6, 2020. <https://www.yesmagazine.org/opinion/2020/07/06/non-black-poc-anti-blackness/> (last visited Aug. 15, 2020); Janice Gassam Asare. *How Communities of Color Perpetuate Anti-Blackness*. FORBES. Jul. 19, 2020. <https://www.forbes.com/sites/janicegassam/2020/07/19/how-communities-of-color-perpetuate-anti-blackness/#37d080f316db> (last visited Aug. 15, 2020); Dailyn Simmons. *The Unspoken Truth*. SUNDIAL. Feb. 28, 2020. <https://sundial.csun.edu/156565/opinions/the-unspoken-truth/> (last visited Aug. 15, 2020); “Indian racism towards Black people is almost worse than white peoples’ racism – An Interview with Arundhati Roy.” Jun. 13, 2020. https://mronline.org/2020/06/13/indian-racism-towards-black-people-is-almost-worse-than-white-peoples-racism-an-interview-with-arundhati-roy/?mc_cid=d5f28152f0&mc_eid=5cd1fc2b2a (last visited Aug. 17, 2020).
- 22 Asare and Simmons, *supra* note 21. Some white-identified Black immigrants and their descendants benefit from and practice “white adjacency,” embracing the broad U.S. narrative that Black DCAUS peoples are **culturally inferior and deficient** to every group in the U.S.
- 23 Dr. Joy DeGruy. *POST TRAUMATIC SLAVE SYNDROME – AMERICA’S LEGACY OF ENDURING INJURY & HEALING*, at 114 (Joy DeGruy Publications Inc., Newly Revised and Updated Edition, 2017).
- 24 United Nations. *Remember Slavery*. <https://www.un.org/en/events/slaveryremembranceday/background.shtml#:~:text=The%20transatlantic%20slave%20trade%20was,annals%20of%20recorded%20human%20history> (last visited Aug. 15, 2020).
- 25 Marimba Ani. *LET THE CIRCLE BE UNBROKEN: THE IMPLICATIONS OF AFRICAN SPIRITUALITY IN THE DIASPORA*, at 12 (N.Y.: Nkonimfo Publications, 1997).
- 26 This article is focused on the European enslavement of Africans in the Americas, recognizing that the Arabs enslaved Africans before the Europeans. See Silja Fröhlich. *African History. East Africa’s forgotten slave trade*. DW. Aug. 22, 2019. <https://www.dw.com/en/east-africas-forgotten-slave-trade/a-50126759> (last visited Sep. 12, 2020).
- 27 Adaobi Tricia Nwaubani. *My Great-Grandfather, The Nigerian Slave Trader*. THE NEW YORKER. Jul. 15, 2018. <https://www.newyorker.com/culture/personal-history/my-great-grandfather-the-nigerian-slave-trader> (last visited Aug. 17, 2020).
- 28 Thomas Lewis. *Transatlantic Slave Trade*. BRITANNICA. <https://www.britannica.com/topic/transatlantic-slave-trade> (last visited Aug. 15, 2020).
- 29 *Supra* note 12.
- 30 “Slave castles/fortresses” are the places European enslavers held captured Africans prior to being forcibly shipped to the Americas. See Lilian Diarra. *Ghana’s Slave Castles: The Shocking Story of the Ghanaian Cape Coast*. THE CULTURE TRIP. Jan. 24, 2017. <https://theculturetrip.com/africa/ghana/articles/ghana-s-slave-castles-the-shocking-story-of-the-ghanaian-cape-coast/> (last visited Aug. 15, 2020).
- 31 *Id.*
- 32 BRITANNICA. *Middle Passage*. <https://www.britannica.com/topic/Middle-Passage-slave-trade> (last visited Aug. 15, 2020).

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The infamous “Middle Passage,” the horrific journey to the Americas that the shackled, stolen, and captured Africans endured, was a months-long journey that separated families throughout the Americas. As Dr. Joy DeGruy, author of *Post Traumatic Slave Syndrome*, states:

*“These people were loaded onto ships and crammed together with sometimes less than 18 inches between them. Here they would dwell for many weeks to several months in the bowels of the ship. They were deprived of any human comfort and shared in a collective misery. This disgusting place was where they slept, wept, ate, defecated, urinated, menstruated, vomited, gave birth, and died.”*³³

It is estimated that 1.5 million or more Africans died in the Middle Passage, excluding about four million that died after capture and before being forcibly shipped to the New World.³⁴ Our Ancestors were ripped permanently from their families, culture, identity, and human dignity permanently and met a destiny of a centuries-long dehumanization, subjugation, and unconscionable brutality that would impact their lives and their descendants for centuries.

Chattel Slavery

While slavery occurred in many societies around the world, chattel slavery is known to be the most brutal form of slavery that ever existed. Occurring from circa 1619–1865 in the north³⁵ and the south, our Ancestors were starved, malnourished, dehydrated, sick, and exhausted. This subjugated life of the enslaved African persisted for centuries,³⁶ and included our children who ate out of pig troughs,³⁷ were fed to hogs,³⁸ used as alligator bait,³⁹ and worked as young as two and three years old.⁴⁰ Many died, never to have known any other life but enslavement, inherited legally (based on the “status” of the mother) and passed down through generations.⁴¹

The original thirteen colonies, and then the United States of America (known to have perfected enslavement) codified in its laws the subjugation and dehumanization of enslaved Africans. Such laws as the fugitive slave acts,⁴² court decisions like *Dred Scott*,⁴³ and the U.S.

33 DeGruy, *supra* note 23, at 57.

34 Patrick Manning, *The Slave Trade: The Formal Demography of a Global System*, in *THE ATLANTIC SLAVE TRADE: EFFECTS ON ECONOMIES, SOCIETIES AND PEOPLES IN AFRICA, THE AMERICAS, AND EUROPE*, 117-44 (Joseph E. Inikori and Stanley L. Engerman eds., 1992).

35 Becky Little, *Slavery Persisted in New England Until the 19th Century*. HISTORY. Jun. 29, 2020. <https://www.history.com/news/slavery-new-england-rhode-island> (last visited Aug. 16, 2020).

36 Nina Martyris, *Frederick Douglass On How Slave Owners Used Food As A Weapon of Control*. NPR. Feb. 10, 2017. <https://www.npr.org/sections/thesalt/2017/02/10/514385071/frederick-douglass-on-how-slave-owners-used-food-as-a-weapon-of-control> (last visited Aug. 15, 2020); see also Steven Mintz, *Children and Transatlantic Slavery*. <http://chnm.gmu.edu/cyh/case-studies/57> (last visited Aug. 15, 2020).

37 Martyris, *supra* note 36.

38 Black News, *Research Reveals That Black Children Were Fed to Hogs and Used as Alligator Bait in the Early 1900's*. Jun. 28, 2019. <https://www.blacknews.com/news/research-reveals-black-children-fed-to-hogs-fish-alligator-bait/> (last visited Aug. 15, 2020).

39 *Id.*

40 Mintz, *supra* note 36; see also Michael J. Dumas and Joseph Derrick Nelson, *(Re)Imagining Black Boyhood: Toward a Critical Framework for Educ. Res.*, 86 HARV. EDUC. REV. at 33 (2016).

41 William Waller Hening, *The Statutes at Large: Being a Collection of All the Laws of Virginia – First Session of the Legislature, In the Year of 1619*, Vol. II at 170 (Feb. 5, 1808). <https://play.google.com/books/reader?id=EDYwAAAAYAAJ&hl=en&pg=GBS.PA170> (last visited Aug. 15, 2020).

42 The Fugitive Slave Acts of 1793 and 1850 were federal laws that authorized the local governments to capture and return enslaved runaways to their enslaver, and imposed penalties on those who aided in their escape. See HISTORY, *Fugitive Slave Acts*. Feb. 11, 2020. <https://www.history.com/topics/black-history/fugitive-slave-acts> (last visited Aug. 15, 2020).

43 *Dred Scott v. John F.A. Sanford*, 60 U.S. 393 (1857) (holding that Blacks, free or enslaved, were not considered citizens under the U.S. Constitution and therefore were not entitled to the rights and privileges of a U.S. citizen).

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Constitution with its three-fifths declaration⁴⁴ reinforced that our DCAUS Ancestors were not part of “we the people”⁴⁵ of the Constitution, but were considered property, like a “horse, cow, or chicken,”⁴⁶ and not citizens.⁴⁷ These laws deprived enslaved adults and children of any rights and protections under the law, providing an open path to heinous brutalities such as murder,⁴⁸ rape,⁴⁹ the selling and separation of families,⁵⁰ and other unimaginable and unconscionable acts at the will of a white person, male or female, with impunity.

Black Codes, Sharecropping & Jim Crow

When enslavement ended in 1865,⁵¹ white southerners wanted to continue utilizing the formerly enslaved as a cheap workforce that they could manipulate and abuse for their own profit. Black Codes⁵² (codified in state laws from 1865 to 1866) were laws designed for that purpose and to limit the freedom of the formerly enslaved.⁵³ When Black Codes ended, it was replaced by another form of oppression and economic dominance by white landowners — sharecropping, a form of peonage.⁵⁴ From 1866 — circa 1955+,⁵⁵ the formerly enslaved were essentially “re-enslaved.” The white landowner entered into agreements with the formerly enslaved (“tenant”) to work the land (including very young children), which were seldom honored. Outright lies about monies owed for supplies, equipment, etc. and high-interest rates for the rental of same were common and kept the “tenant” indebted to the white landowner.⁵⁶ This abusive system was affirmed by laws that favored landowners and made it

44 BRITANNICA. *Three-fifths compromise*. Jun. 26, 2020. <https://www.britannica.com/topic/three-fifths-compromise> (last visited Aug. 15, 2020).

45 The Constitution. <https://www.whitehouse.gov/about-the-white-house/the-constitution/> (last visited Aug. 11, 2020); see also John W. Blassingame (ed.), “The Frederick Douglass Papers, Series One: Speeches, Debates, and Interviews.” Vol. 2, 1847-54. New Haven: Yale University Press. p. 359-87.

46 *Message to the Grassroots*. Malcolm X. Black Past. 1963. <https://www.blackpast.org/african-american-history/1963-malcolm-x-message-grassroots/> (last visited Aug. 16, 2020).

47 See, *supra*, note 43.

48 Hening, *supra* note 41, at 270.

49 T. Morris. *Southern Slavery and the Law, 1619-1860*, 305-6 (Chapel Hill, NC: The University of North Carolina Press 1996).

50 Mintz, *supra* note 36.

51 President Abraham Lincoln issued the Emancipation Proclamation on January 1, 1863 ending enslavement; <https://www.archives.gov/exhibits/featured-documents/emancipation-proclamation#:~:text=President%20Abraham%20Lincoln%20issued%20the,and%20henceforward%20shall%20be%20free.%22> (last visited Aug. 16, 2020); however, enslaved Blacks in Texas did not receive word of the ending of enslavement until June 1865. The New York Times. *So You Want to Learn about Juneteenth?* <https://www.nytimes.com/article/juneteenth-day-celebration.html> (last visited Aug. 16, 2020).

52 *Slavery by Another Name: Black Codes and Pig Laws*. PBS. <https://www.pbs.org/tpt/slavery-by-another-name/themes/black-codes/> (last visited Aug. 16, 2020).

53 *Black Codes*. <https://www.history.com/topics/black-history/black-codes> (last visited Aug. 16, 2020) (“Mississippi and South Carolina enacted the first Black Codes. Mississippi’s law required Blacks to have written evidence of employment for the coming year each January; if they left before the end of the contract, they would be forced to forfeit earlier wages and were subject to arrest.”); South Carolina, for example, had an Apprentice Law that authorized courts to apprentice Black children, even against their will, to an employer until age twenty-one (21) for males and eighteen (18) for females. See Southern Black Codes. Constitutional Rights Foundation. <https://www.crf-usa.org/brown-v-board-50th-anniversary/southern-black-codes.html> (last visited Aug. 16, 2020). The employer, who sometimes was the former enslaver, had the right to inflict “moderate” punishment on their apprentices and to recapture runaways. See also *supra* note 52.

54 *Slavery by Another Name: Sharecropping*. PBS. <http://www.pbs.org/tpt/slavery-by-another-name/themes/sharecropping/> (last visited Sep. 11, 2020); see also *Sharecropping*. Britannica. <https://www.britannica.com/topic/sharecropping> (last visited Sep. 11, 2020). Please note that peonage (debt servitude) and convict leasing are also part of the violence, family separation, and dehumanization that DCAUS families experienced. See Equal Justice Initiative. *Convict Leasing*. Nov. 1, 2013. <https://eji.org/news/history-racial-injustice-convict-leasing/> (last visited Sep. 11, 2020); See Nancy O’Brien Wagner. *Slavery By Another Name History Background*. PBS. p. 1-4. https://bento.cdn.pbs.org/hostedbento-prod/filer_public/SBAN/Images/Classrooms/Slavery%20by%20Another%20Name%20History%20Background_Final.pdf (last visited Sep. 11, 2020); see also Rafi Letzer. *Black People Were Enslaved in the US Until as Recently as 1963*. Live Science. Feb. 28, 2018. <https://www.livescience.com/61886-modern-slavery-united-states-antoinette-harrell.html> (last visited Sep. 11, 2020).

55 Historian and genealogist, Dr. Antoinette Harrell, has uncovered stories where sharecropping still existed well past the “written history” of its ending. See Antoinette Harrell. *Slavery. Black People in the US Were Enslaved Well into the 1960’s*. VICE. Feb. 28, 2018. https://www.vice.com/en_us/article/437573/blacks-were-enslaved-well-into-the-1960s (last visited Sep. 12, 2020).

56 *Supra* note 54.

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illegal for the “tenant” to sell crops to others aside from the white landowner with whom they originally formed agreements.⁵⁷

Sharecropping merged with the Jim Crow Era (circa 1866–1950s/60s), the period of legal, racial segregation that occurred in both the north and the south in public places, including schools, public accommodations, transportation, hospitals, and neighborhoods.⁵⁸ White hate groups like the Ku Klux Klan, white vigilante groups, and police departments and governments waged violence and torture against Black people throughout this country, lynching over 4,000 people between 1870 and 1950,⁵⁹ and torching communities like the Greenwood district of Tulsa, Oklahoma known as (“the Black Wall Street”).⁶⁰ DCAUS adults were left childless, and DCAUS children were left orphaned. The racial segregation laws were damaging,⁶¹ leading to the civil rights movement that rose out of the systemic torture, dehumanization, and murder of DCAUS peoples. Our freedom struggle during the Jim Crow era led to the passage of several Civil Rights Acts⁶² that have benefitted women, other “people of color,”⁶³ immigrants, LGBTQ+, and other marginalized groups.

Present-Day

The explicit and implicit messages DCAUS peoples receive is that we “do not matter.” These messages are evidenced in the murder and violence against DCAUS⁶⁴ peoples (adults and children) by police and white vigilantes without accountability;⁶⁵ community displacement

⁵⁷ *Id.*

⁵⁸ Jeff Wallenfeldt. *What Is the Origin of the Term “Jim Crow”?* Britannica. <https://www.britannica.com/story/what-is-the-origin-of-the-term-jim-crow> (last visited Sep. 11, 2020); see also Steve Luxenberg. *History. Opinion. The Forgotten Origins of Jim Crow.* TIME. Feb. 12, 2019. <https://time.com/5527029/jim-crow-pleassy-history/> (last visited Sep. 11, 2020)

⁵⁹ Equal Justice Initiative. *Lynching in America: Confronting the Legacy of Racial Terror*, at 4 (Third ed., 2017). <https://eji.org/wp-content/uploads/2019/10/lynching-in-america-3d-ed-080219.pdf> (last visited Aug. 16, 2020).

⁶⁰ The Tulsa Massacre occurred between May 31st and June 1st, 1921. Mobs of white vigilantes, many of whom were deputized by city officials and given weapons, massacred Black citizens and businesses in the Greenwood district of Tulsa, Oklahoma. Blacks were attacked on the ground and by air. Thirty-five blocks of the then-wealthiest Black community in the U.S., known as “Black Wall Street”, were destroyed. See *Tulsa Race Riot. A Report by the Oklahoma Commission to Study the Tulsa Race Riot of 1921.* (Feb. 28, 2001). <https://www.okhistory.org/research/forms/freport.pdf> (last visited Aug. 16, 2020).

⁶¹ See, e.g., NAACP Legal Defense Fund. “Doctors Kenneth and Mamie Clark and “The Doll Test.” <https://www.naacpldf.org/ldf-celebrates-60th-anniversary-brown-v-board-education/significance-doll-test/> (last visited August 14, 2020) (Drs. Kenneth and Mamie Clark, two Black psychologists, instituted the famous “Doll Test” that was utilized in the landmark *Brown v. Board of Education* case to determine the effect that segregation had on Black children. “The Clarks concluded that prejudice, discrimination, and segregation created a feeling of inferiority among African-American children and damaged their self-esteem.”). This test was repeated by CNN. See CNN. “Study: White and black children biased towards lighter skin.” May 14, 2010. <https://www.cnn.com/2010/US/05/13/doll.study/index.html> (last visited Aug. 14, 2020) (The researcher concluded “[t]he tests showed that white children, as a whole, responded with a high rate of what researchers call ‘white bias,’ identifying the color of their own skin with positive attributes and darker skin with negative attributes. Spencer said even black children, as a whole, have some bias toward whiteness, but far less than white children.”).

⁶² *Constitutional Amendments and Major Civil Rights Acts of Congress.* HISTORY, ART & ARCHIVES – UNITED STATES HOUSE OF REPRESENTATIVES. <https://history.house.gov/Exhibitions-and-Publications/BAIC/Historical-Data/Constitutional-Amendments-and-Legislation/> (last visited Aug. 16, 2020).

⁶³ *Supra* note 20.

⁶⁴ Hamilton, *supra* note 13, at 24. Disaggregated data on ethnicity within the Black/African American racial category is not collected through the Census. However, the U.S. Census and the 2014 American Community Survey (ACS) illustrates that the majority of Black/African American people in the U.S. (prior to 1960–65) are native born (although may not be delineated based on the DCAUS criteria set forth in Section II of this article). And given the numbers of enslaved Africans that were brought to this country and their numbers throughout history in conjunction with immigration data, it can be rationally assumed that we are the majority of Black people in this country.

⁶⁵ There are numbers of Black men, women, and children that have been murdered by the police and white vigilantes. Here, I am naming a few. Trayvon Martin who was shot and killed by George Zimmerman who reported him as a “suspicious person” in Martin’s own neighborhood and who was later exonerated for his death. CNN. *Trayvon Martin Shooting Fast Facts.* Feb. 16, 2020. <https://www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts/index.html> (last visited Aug. 17, 2020); Tamir Rice, a 12-year-old murdered in the park by Cleveland police and who was described as a “Black male, maybe 20.” Sheila Dewan and Richard A. O’Connell Jr. *In Tamir Rice Case, Many Errors by Cleveland Police, Then a Fatal One.* N.Y. TIMES. Jan. 22, 2015. <https://www.nytimes.com/2015/01/23/us/in-tamir-rice-shooting-in-cleveland-many-errors-by-police-then-a-fatal-one.html> (last visited Aug. 17, 2020); Breonna Taylor, 26-year-old unarmed Black woman and Emergency Medical Technician (EMT), who was murdered by the police after a judge approved a no-knock warrant, noting that Taylor’s apartment was considered a “less volatile, soft target.” To this date no charges have been brought against the police that murdered Taylor. Scott Glover, Collette Richards, Curt Devine, and Drew Griffin. *A key miscalculation by officers contributed to the tragic death of Breonna Taylor.* CNN. Jul. 23, 2020. <https://www.cnn.com/2020/07/23/us/breonna-taylor-police-shooting-invs/index.html> (last visited Aug. 17, 2020).

▶ **Reparatory Justice** from previous page

through gentrification;⁶⁶ inhuman and derogatory treatment in environmental (water, hookworms, lead, etc.) crises;⁶⁷ and the disproportionate removal of Black children from their families and placement in the child welfare system,⁶⁸ a system that has been overshadowed by its delinquency counterpart.

Four core aspects lead to heightened involvement of fragile DCAUS families with the child welfare system. One is racial bias, implicit and explicit.⁶⁹ Second, the inheritance of racial trauma, through what Dr. Joy DeGruy names post traumatic slave syndrome,⁷⁰ can contribute to ineffectual parenting,⁷¹ learned through social engineering of DCAUS families at the hands of the white enslaver. Three, external factors — social, economic, and political⁷² — that heighten fragile DCAUS family vulnerability. And four, structural systems that embrace laws, such as the Adoption and Safe Families Act (ASFA), that render fragile DCAUS families vulnerable to the child welfare system, reaffirming permanent separation of DCAUS children and families⁷³ and loss of biological and cultural ties reflective of history.

These four core aspects have created a challenge in addressing the needs of fragile DCAUS children and families that are rooted in a historic and continual harm buttressed by a white supremacist structural system that has created a social, economic, and political inequity for DCAUS peoples that needs repair. This repair requires solutions that must be racially and ethnically specific.

66 Mindy Thompson Fullilove and Rodrick Wallace. *Serial Forced Displacement in American Cities, 1916–2010*. *Journal of Urban Health: Bulletin of the New York Academy of Medicine*, Vol. 88, No. 3, at 383–84 (2011).

67 Merrit Kennedy. *Lead-Laced Water In Flint: A Step-By-Step Look At The Makings Of A Crisis*. NPR. Apr. 20, 2016. <https://www.npr.org/sections/thetwo-way/2016/04/20/465545378/lead-laced-water-in-flint-a-step-by-step-look-at-the-makings-of-a-crisis> (last visited Aug. 14, 2020); Ed Pilkington. *"Hookworm, a disease of extreme poverty is thriving in the U.S. south. Why?"* *The Guardian*. Jul. 10, 2017. <https://www.theguardian.com/us-news/2017/sep/05/hookworm-lowndes-county-alabama-water-waste-treatment-poverty> (last visited Aug. 14, 2020); Lawrence Brown. *Baltimore's Ongoing Lead Poisoning Crisis & the Link to Violent Crime*. Medium. Sep. 10, 2018. <https://medium.com/@BmoreDoc/baltimores-ongoing-lead-poisoning-crisis-b53870c4a142> (last visited Aug. 14, 2020); Katie Moisse. *Baltimore's Kennedy Krieger Institute Sued Over Lead Paint Study*. ABC News. Sep. 16, 2011. <https://abcnews.go.com/Health/Wellness/baltimores-kennedy-krieger-institute-sued-lead-paint-study/story?id=145366695> (last visited Aug. 14, 2020); Professor Phillip Alston. *Special Rapporteur on Extreme Poverty and Human Rights. Statement on visit to the USA*. UNITED NATIONS. HUMAN RIGHTS. OFFICE OF THE HIGH COMMISSIONER. Dec. 15, 2017. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22533> (last visited Aug. 14, 2020).

68 Child Welfare Information Gateway. *Racial Disproportionality and Disparity in Child Welfare* at 3. Nov. 2016. https://www.childwelfare.gov/pubPDFs/racial_disproportionality.pdf (last visited Sept. 2, 2020).

69 U.S. GOV'T. ACCOUNTABILITY OFFICE, GAO-07-816. *African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care at 22–25* (Jul. 2007).

70 Dr. Joy DeGruy asserts that the sustained trauma that was experienced by our DCAUS Ancestors over centuries and continuing present-day has created an injury — *post traumatic slave syndrome (PTSS)*, "a condition that exists when a population has experienced multigenerational trauma resulting from centuries of slavery and continues to experience oppression and institutionalized racism today. Added to this condition is a belief (real or imagined) that the benefits of the society in which they live are not accessible to them." Dr. DeGruy's theory is that this syndrome is passed down through generations biologically and in learned behavioral patterns through a legacy of trauma. (Note that the theory is supported by some academicians and others are slow to embrace it as it bears to mind eugenics, a pseudoscience that attributed to the superiority and inferiority of racial ethnic groups). Dr. DeGruy posits that there are three categories of symptoms that are transmitted through family, community, and society, generationally: *vacant esteem* ("a belief about one's worth"), *ever-present anger* ("response to the frustration of blocked goals and the fear of failure"), and *racist socialization* (adoption of the oppressor's value system). She argues that PTSS can pass-down to inappropriate parenting practices, particularly as it relates to vacant esteem. Dr. DeGruy, *supra* note 23, at 101, 102, 105, 109, 113, 116.

71 Dr. DeGruy, *supra* note 23, at 104.

72 U.S. Gov't Accountability Office, *supra* note 69, at 16–17.

73 Erin Cloud, Rebecca Oyama, and Lauren Teichner. *Family Defense in the Age of Black Lives Matter*. *City University of New York Law Review*. Vol. 20, Issue 1, 85–87 (Winter 2017).

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IV. What does reparatory justice look like for DCAUS families and children?

“...the legacy of enslavement, racial subordination and segregation, racial terrorism, and racial inequality in the US remains a serious challenge as there has been no real commitment to reparations and to truth and reconciliation for people of African descent. Despite substantial changes since the end of the enforcement of Jim Crow and the fight for civil rights, ideology ensuring the domination of one group over another, continues to negatively impact the civil, political, economic, social and cultural rights of African Americans today.”⁷⁴

Simultaneously holding the spirit and anatomy of the freedom fighter with pain, suffering, and oppression is the complexity of the life of DCAUS peoples. Standing in this duality offers a strength and resilience that is unmatched but also an injury in need of repair. History, lived experience, and research have strongly demonstrated the structural violence that DCAUS children and families experience. Specifically underscoring this is the known belief that our children are not seen nor treated as children,⁷⁵ a class that should be specially protected due to age and innocence.⁷⁶ Our children and families historically and presently are denied basic

Passage and implementation of a federal DCAUS Child-Family Welfare Act can begin to address our specific injury.

human protections. As a “specially protected class,”⁷⁷ our specific history, contribution, and harm in this country requires a *race/ethnic-specific* remedy to address historic and present-day harm. Passage and implementation of a federal DCAUS Child-Family Welfare Act can begin to address our specific injury.

This Act is a subset of a larger reparatory package (*this larger package includes, but is not limited to, multiple, multi-generational cash payouts to DCAUS peoples, generally, and other specific factors addressed by ADOS and other groups*)⁷⁸ that centers DCAUS families impacted by public systems, including, but not limited to the child welfare system, that have dismantled and disrupted families and harmed children. The intent of this Act is to repair the historic and on-going dehumanization that DCAUS children and families have suffered in the U.S. It should begin with a national *DCAUS Child-Family Task Force*⁷⁹ to explore what a comprehensive federal DCAUS Child-Family Welfare Act should contain and to make recommendations to policy makers and specifically, the co-sponsors of H.R. 40/S.1083 — a bill

74 United Nations. Human Rights. Office of the High Commissioner. Statement to the media by the United Nations' Working Group of Experts on People of African Descent, on the conclusion of its official visit to USA, 19-29 January 2016. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17000> (last visited Aug. 12, 2020).

75 Goff, Jackson, et. al, *supra* note 17, at 526-27; Rebecca Epstein, Jamila J. Blake, and Thalia González. *Girl Interrupted: The Erasure of Black Girls' Childhood*. Georgetown Law Center on Poverty and Inequality. at 1-2, 4. Aug. 14, 2017. <https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2017/08/girlhood-interrupted.pdf> (last visited Aug. 16, 2020); Cory Turner. *The Mental Health Crisis in Our Schools: Preschool Suspensions Really Happen And That's Not OK with Connecticut*. Sep. 5, 2016. <https://www.npr.org/sections/ed/2016/09/05/490226345/preschool-suspensions-really-happen-and-thats-not-okay-with-connecticut> (last visited Aug. 16, 2020).

76 The U.S. is the only member-State of the United Nations who has not ratified the Convention on the Rights of the Child. United Nations Treaty Collections. Convention on the Rights of the Child. https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en (last visited Sep. 12, 2020).

77 Race is a specially protected class under federal civil rights laws. See U.S. Department of Labor. *Legal Highlight: The Civil Rights Act of 1964*. <https://www.dol.gov/agencies/oasam/civil-rights-center/statutes/civil-rights-act-of-1964#:~:text=The%20Civil%20Rights%20Act%20of%201964%20prohibits%20discrimination%20on%20the,religion%2C%20sex%20or%20national%20origin.&text=The%20Act%20prohibited%20discrimination%20in,and%20the%20desegregation%20of%20schools> (last visited Sep. 11, 2020); see also Meghan Droste. *What are "Protected Classes?"* Subscript Law. Jun. 22, 2020. <https://www.subscriptlaw.com/blog/protected-classes/> (last visited Sep. 11, 2020).

78 Rashawn Ray and Andre M. Perry. Big Ideas. *Why we need reparations for Black Americans*. Brookings Institute. Apr. 15, 2020. https://www.brookings.edu/wp-content/uploads/2020/04/BigIdeas_Ray_Perry_Reparations.pdf (last visited Sep. 10, 2020).

79 I've begun assembling national partners for this Task Force. The purpose is to determine what should be included in the federal Act and to make comprehensive recommendations to policy makers.

► **Reparatory Justice** from previous page

requesting a Commission to Study and Develop Reparation Proposals for African-Americans Act.⁸⁰ Recommendations for this Act include, but are not limited to:

- Establishment of a community-based, multi-disciplinary (to include directly-impacted DCAUS children and parents) DCAUS-focused board in each jurisdiction in the nation that reviews removals of DCAUS children and makes legislative recommendations to local, state, and national policy makers.⁸¹
- Provide DCAUS-specific mental health and family supportive services that are delivered by competent, trained, and expertly-informed individuals knowledgeable of DCAUS history, experience, and needs.⁸²

This is a modest attempt to begin the process for justice, racial healing, and restoration for DCAUS children and families.

V. Conclusion

“States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination”⁸³

Our failure as a nation to address the long-standing, centuries-old racial⁸⁴ injustices experienced by DCAUS peoples throughout history and present-day is a problem that can no longer be ignored. The U.S. is about to implode. The confluence of COVID-19, the *viral*, public inhumane execution of George Floyd, and the resulting racial uprising amid an intense, greatly divided presidential election, has exposed the continued dehumanization and subjugation of DCAUS peoples in every aspect of human life. The U.S. is on display for the world to see its hypocrisy at its root, contravening the broader U.S. narrative of its “*idyllic*” founding — “*We*

80 H.R.40/S. 1083 was first introduced by John Conyers (former U.S. Representative from Michigan) in 1989 and subsequently Sheila Jackson Lee (U.S. Representative from Texas) and Cory Booker (Senator from New Jersey) in 2019 to “establish[es] the Commission to Study and Develop Reparation Proposals for African-Americans. The commission shall examine slavery and discrimination in the colonies and the United States from 1619 to the present and recommend appropriate remedies. Among other requirements, the commission shall identify (1) the role of federal and state governments in supporting the institution of slavery, (2) forms of discrimination in the public and private sectors against freed slaves and their descendants, and (3) lingering negative effects of slavery on living African-Americans and society.” It has 154 co-sponsors in the U.S. House of Representatives and 19 co-sponsors in the Senate. See Commission to Study and Develop Reparation Proposals for African-Americans Act, 116th Congress (2019-2020). <https://www.congress.gov/bill/116th-congress/house-bill/40> (last visited Sep. 11, 2020) and <https://www.congress.gov/bill/116th-congress/senate-bill/1083> (last visited Sep. 11, 2020).

81 42 U.S.C. § 5102(a)(c) of Chapter 67 of the Child Abuse Prevention and Treatment and Adoption Reform Act, authorizes the Secretary [of Health and Human Services] “to appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.” The statute also gives guidance as to who should be members of the advisory board. The DCAUS-focused board I propose may be an “advisory board” in the spirit of CAPTA or an entirely different governing body. Recommendations of the nationally assembled task force that I am convening should ultimately decide the role of the “community-based” board. (Note: some states/local jurisdictions may have few, if any, DCAUS children in care. The national task force would determine the recommendations for those jurisdictions to policy makers).

82 42 U.S.C. § 622 (15)(A)(i-viii) of the Child and Family Services Improvement and Innovation Act requires state plans for child welfare services, specifically noting issues related to health care; see also the Families First Prevention Act Services Act of 2018 whose purpose is to “enable States to use Federal funds available under parts B and E of title IV of the Social Security Act to provide enhanced support to children and families and prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.” <https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx> (last visited Sep. 12, 2020).

83 United Nations International Convention on the Elimination of All Forms of Racial Discrimination, Art. 6. Ratified by the U.S. October 21, 1994.

84 Neil S. Siegel. *The Supreme Court Is Avoiding Talking About Race: Saying nothing often is saying something.* THE ATLANTIC. Aug. 7, 2020 <https://www.theatlantic.com/ideas/archive/2020/08/supreme-court-doesnt-like-talk-about-race/614944/> (last visited Aug. 16, 2020).

► **Reparatory Justice** from previous page

the people... in order to form a more perfect union, establish justice... and secure the blessings of liberty, and establish this Constitution...”⁸⁵

The U.S.’ repeated failure and **refusal** to address **race/ethnic-specific injuries**⁸⁶ cripples its growth and disallows it from standing up to its ideals, eventually leading to its stumble as a global world power. The U.S. **must** address its subhuman treatment of DCAUS peoples and the structural violence we continue to experience as a community that has created racial trauma and has systemically offered ineffective solutions to remedy deep-rooted problems. History impacts the future. So let’s begin to repair the harm done. Let’s begin with a DCAUS **Child-Family Welfare Act. The Time Is Now.** ■

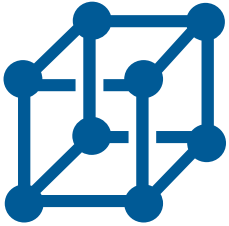
⁸⁵ The Constitution. <https://www.whitehouse.gov/about-the-white-house/the-constitution/> (last visited Aug. 11, 2020).

⁸⁶ *Supra* note 67.



ABOUT THE AUTHOR:

Stephanie S. Franklin, Esq., a legal practitioner in child welfare for over 21 years, is the President & CEO of the Franklin Law Group, P.C., a child advocacy law firm in Baltimore, Maryland that has advocated for the human right to safety, development, and well-being for abused and neglected children since 2007. The Franklin Law Group, P.C. is launching its “*Writing to Freedom*” series, a special newsletter dedicated to educating the child welfare community about DCAUS (descendants of captive and enslaved Africans in the U.S.) children and families this winter (2020-2021). If interested in receiving a copy of this newsletter, please go to linktr.ee/franklinlaw.



YOUTH PERSPECTIVE

Temporary COVID-19 Life Changes are Our Everyday Life in Foster Care

by Jessica Overstreet

A version of this article was originally published in the May/June issue of *Fostering Families Today*.

The current crisis that you are facing and the emotions you are experiencing during this pandemic are like what foster youth experience every day. People are now walking in our shoes as they experience fear, uncertainty, and constant changes to daily life. You can't see your friends or family due to circumstances beyond your control. You can't pursue hobbies, entertainment, or social clubs.

You do not know if you will be able to stay in your home if another family member gets sick. You may not have access to needed resources. You're given conflicting information that you don't understand and don't know who to ask for answers. You have crazy rules and restrictions in place for what you can and can't do. Today can be very different than tomorrow — just like it is for youth in foster care when we are forced to abruptly move placements. For us, everything is always changing.

As we all deal with the effects of COVID-19, we feel as though we don't have a voice or a say in our own lives — which feels exactly like what children experience in foster care. Some of you are navigating working in a new place and using new technology platforms, like the youth who navigated an unknown system when we were abruptly thrown into foster care. You are experiencing what it's like to try to maintain connections via phone but long for actual contact with loved ones. Plans that you had are cancelled or postponed, like our plans when we had to miss special events, sleepovers, or prom. You couldn't celebrate your birthday — many of us didn't celebrate in foster care either.

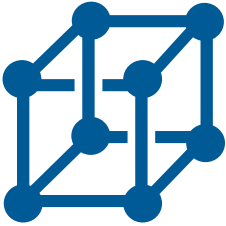
You will not be able to get all the items on your grocery list, and you learn to ration food and supplies. The same is true for children in foster care — when homes would lock the fridge or when our families couldn't put food on the table. Your resources are low, and you start improvising, just like we do when we become adults without parental support.



ABOUT THE AUTHOR:

Jessica Overstreet is an advocate of Florida Youth SHINE, a statewide youth-driven, peer-led organization under Florida's Children First that empowers current and former youth from foster care to become advocates for all youth in care. A native of Hillsborough County, she came into foster care at age 14, and was adopted at 17. While dedicating her time to be a strong voice for youth in foster care, Jessica is studying Hospitality Management at the University of Central Florida and is working in the hospitality industry.

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You feel excluded in making decisions and plans for your life. You are nervous you or your loved ones may not have the medical care and support they may need. We experienced this, too, through uncertain access to doctors and medications. You may have to navigate a complex process of advocating for your own health and well-being. Many of us needed to learn to be self-advocates because our lives depended on it. Social distancing is taking a toll on you and your emotions. Youth in foster care know all about social distancing and the emotional impact it had on us. You don't feel safe around certain individuals, or at all.

However, many of you are fortunate that you can safely "stay at home," because some of us never found a safe place to call home.

Although this is a very stressful and scary time, you can be resilient and get through this. I know this because this is my and my peers' lives. Many of us got through this with the help of supportive individuals.

Through this crisis we can learn from our struggles and successes and support one another to thrive and become resilient. You can view this experience as part of your past that will make you a stronger person in your future. ■



Visit NACC's COVID-19 Resource Hub

During this pandemic, NACC is collecting and sharing resources to keep our community informed and prepared to safeguard the rights and well-being of young people.





EXECUTIVE DIRECTOR'S MESSAGE

Opening Remarks from the NACC 43rd National Child Welfare Law Virtual Conference

by Kim Dvorchak, JD

Welcome all to the 43rd National Child Welfare Law Conference, an event held by the National Association of Counsel for Children every year since our founding in 1977. As members of our Emeritus Board can tell you, back then our conference materials were Xeroxed, hole punched, and distributed in three-ring binders by hand.

Who could have imagined then that we would convene in the cloud — each of us sitting in our own home or office, connected by hyper-links, streaming services, and apps on our smart-phones? And who could have imagined this would also be how we practice law?

Although this was not the conference NACC had planned at the start of this year, it might be one of the most important, because we need to come together at this moment in time. We need to come together to face the challenges of practicing in a pandemic, and to keep our eyes on big child welfare reform opportunities, such as the Family First Prevention Services Act.

But we also need to come together as a profession, to seriously reckon with our role and our responsibilities in a child welfare system that negatively and disproportionately impacts youth, parents, and families of color. We come into this work to help, with the best intentions, but we have to actively do better. The COVID-19 pandemic has exposed child welfare professionals to a small yet potent dose of the disruption, separation, and uncertainty that the children and parents we serve experience every day, and often for years. It is unconscionable, six months into this pandemic, that children still have not had in-person contact with their parents or siblings, and that we would continue to keep young people in dangerous group care settings.

Last August, when I welcomed you to our conference in sunny southern California, I shared the Hippocratic oath: First, do no harm. Looking back on the last twelve months, have we fulfilled that pledge? Have we stayed focused on the primacy of relationships, and the family and human connections necessary for healthy development? Have we rallied against isolation and separation? Have we taken care of ourselves while increasing our capacity for empathy and compassion? And have we responded with sufficient urgency to the calls for racial justice in the child welfare system?

▶ **Executive Director's Message** from previous page

The killings of George Floyd, Cornelius Fredricks, and other Black men, women, and children must result in a renewed pledge to act differently. Sixteen-year-old Cornelius Fredricks was placed in the care of the child welfare system. He was later transferred to a residential behavioral health care center. One day this May, Cornelius threw a sandwich at another boy - twice. His consequence? Cornelius was violently thrown to the ground, physically restrained, and laid on by seven men. Boys watched during those twelve minutes of restraint, hearing Cornelius scream "I can't breathe" before his body went limp. Cornelius never regained consciousness, and he died two days later.

How many Corneliuses have we placed in facilities like this because we thought congregate care would better meet their needs, when what they really needed was for the system to resource a family to care for them? Let's not stop at ending restraint methods, or better training; let's make conscious decisions to support families and choose family-like settings.

The Hippocratic oath recognizes that incredible power comes with equal responsibility, which we must face with great humility and an awareness of our own shortcomings. We speak for child well-being, rights, and opportunity, but our systems, our practices, and our actions have perpetuated racial disproportionality and disparity at nearly every decision point.

To create a more equitable child welfare system, we must lean into discomfort, begin to grapple with uncomfortable truths, and make critical choices that disrupt the status quo and do what works. We must invest in prevention and early intervention. We must share power and co-design solutions with young people, parents, and kin.

NACC recognizes our own history in this and the responsibility to do so much more. We are on this journey with you, listening, learning, striving to improve, inevitably making mistakes but coming back the next day to listen again and act better accordingly. This virtual conference is designed to equip and support you as a practitioner, but also, to encourage and to empower you to dismantle the well-worn systemic pathways that leave indelible marks on the children and families we serve.

We hope you will spend this conference learning from our expert faculty, connecting with your colleagues, and recommitting yourself to the challenging work ahead. In a year from now, when we meet in sunny Denver, Colorado, let us remember 2020 as a turning point in our field, and hold ourselves accountable to a more just and equitable child welfare system. ■



ADVOCATING FOR YOUR CLIENTS AND YOUR CAUSE:

What to do if the Media Calls

You are pages deep in a reunification plan, thinking through how your client can safely return home. You are 100 percent focused on your client's well-being and the obstacles this family faces. Your phone rings. You pick it up, and it's a journalist asking about a particularly controversial case your organization is working on.

What now?

Your job is to advocate for your client, and the media can be a powerful tool in your advocacy — or a dangerous one.

Ask the Right Questions

You're on the phone with this reporter, and she's asking about your work. Your first instinct may be to say "no comment," and to hang up. However, in the world of journalism, "no comment" is, in fact, a comment — and it's one journalists can use to their story's advantage.

Instead, take a step back, and instead of answering questions, ask some questions:

- *What publication does the reporter work for?*
- *Exactly what is the reporter writing about? Why are they focused on the topic? What do they hope to accomplish by speaking with you?*
- *What is the reporter's deadline?*
- *What is the purpose of the interview--is it "on background," or for a direct quote from you? (Sometimes a reporter just wants to learn from you, but doesn't plan to mention you in their story, which means they are interviewing you "on background.")*
- *What is the reporter's contact information?*

Once you ask these level-setting questions, you're done for now. Let the reporter know you're in the middle of something and will get back to them.



ABOUT THE AUTHOR:

Niki Juhasz is a senior strategist at [Forthright Advising](#), a communications firm that works exclusively with organizations that love kids.



► **What to do if the Media Calls** from previous page



Ensure the Right People are in the Room

At Forthright Advising, we always say that the point of media relations is not speaking to the media, it's **speaking through the media** to your target audience. With that in mind, meet with your team — your communications and policy directors if you have them, or your executive director if they are involved with media relations activities. Get together with anyone working on the client team to strategize. If you are the only attorney in your practice, consider consulting with colleagues who may have media experience.

While thinking through your goals, ask the following questions during that internal strategy session:

Organization-Focused Questions

- *Does doing the interview make sense for my organization strategically? Why?*
- *Does my target audience read the publication?*
- *Is speaking to this topic going to help us achieve our case-specific and/or organizational goals?*
 - For example, let's say you're working on child welfare reform in Georgia, and the *Atlanta Journal-Constitution* calls. Talking with this journalist can help them understand the issue and write a thoughtful article. The policymakers you are trying to reach likely read this publication as well. Therefore, speaking with the reporter may help reach your specific target audience and help accomplish your goals.
- Do we have the capacity to do the interview?
- If you wouldn't be the one doing the interview, think through who could--and if they are prepared to represent your organization well.

Client-Focused Questions

- *Is there any way this interview could harm our client?*
 - *For example, would a public interview lead to your client's abuser finding your client, or to your client getting into legal trouble?*
- *Does the reporter want to speak with the client? If so, would the client feel comfortable speaking to the media—and not feel like they “have” to do it?*
 - *Will the client be able to speak to the media and represent your organization's values?*
 - *Is the client underage, and does your agency have the ability to give permission for them to speak with the media?*
 - *Does the client understand what a media story will mean for them?*
 - *For example, once a story is live, it will always be searchable on the internet, and their friends and family may see it.*

► **What to do if the Media Calls** from previous page



Use Strategy to Decide on Next Steps

Once you discuss these questions — and speak with your client, if needed — you will know if the story is the right one for your organization.

If the answer is yes, prepare the **main three points** you want the reporter to walk away with — and practice ensuring they make it into your interview.

If the answer is no, thank the reporter for the opportunity, and let them know that you cannot share details about this open case. At this point, you can also share what you **CAN** speak to in interviews, so when they need a comment again, they come back to you.

Speaking through the media to your target audiences can be a powerful tool in advocating for your individual client or for an organizational priority. The next time a journalist calls, consider the opportunities and the drawbacks, and strategically decide how you can best harness the power of the media. ■

A banner image featuring a dark blue background with a pattern of classical columns and architectural details. The text is overlaid in white.

Visit NACC's Title IV- ϵ Funding for Legal Representation Resource Hub



Legal Services Programs Help Low-Income Clients Navigate COVID-19 Issues

By [Dianna Parker](#), [Baylee Butler](#), [Robin Bozian](#), and contributors

As our nation grapples with COVID-19 and the worldwide call for racial justice, the necessity for legal services for low-income communities has become abundantly clear. Challenging systemic inequities and ensuring equal access to justice and basic human needs are at the heart of legal aid's mission.

According to a [Census Bureau study](#), more than fifty percent of households with children under the age of eighteen have lost at least one adult income and are struggling to make ends meet as a result of the COVID-19 pandemic. Lack of income and resources often leads to legal trouble for people receiving public benefits, at risk of losing their housing, or struggling to make sure their children receive the education they need. Legal services programs can help.

With most staff working from home, legal services programs across the country have maintained their traditional civil law practice areas while also shifting resources and priorities to respond to current needs. Despite the ever-changing landscape of the world today, legal services attorneys continue to break down barriers for and stabilize the lives of vulnerable children and families by providing holistic legal services in the areas of income, housing, benefits, and education. Non-profit legal aid programs exist throughout the country to provide free civil legal representation to low-income people to ensure equal access to the justice system.

Housing

Housing stability is more essential than ever, as families cannot “stay home, stay safe” if they don't have a home. Since the pandemic began, legal services advocates have served on the front lines of the eviction crisis, representing families who were unlawfully evicted, identifying and asserting CARES Act violations by federally subsidized landlords, and connecting families with non-legal resources and funds. [Legal Aid Services of Oklahoma](#) has seen a huge influx of illegal evictions and has provided additional housing law training to staff attorneys, as well as set up outside the eviction docket of the courthouse. The organization works with a partner agency, [Community Cares Partners](#) to provide rental assistance to residents who have been financially impacted by the Covid-19 pandemic and are facing eviction. Nationwide, legal services lawyers are assembling virtual tenant advice clinics, court-based eviction clinics, and mediation programs to keep as many families and children as possible housed in clean, safe homes.

THE AUTHORS:

Baylee Butler, (L) *Staff Attorney*
Southeastern Ohio Legal Services

Robin Bozian, (R) *Managing Attorney and Project Manager*, Southeastern Ohio Legal Services



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In Columbus, Ohio, multiple social service agencies have a daily presence at the convention center that has been turned into a makeshift eviction court. The agencies — including the [Legal Aid Society of Columbus \(LASC\)](#) — offer rental assistance, mediation services and legal information. Elsewhere in Ohio, [Southeastern Ohio Legal Services \(SEOLS\)](#) has begun offering tenant-advice clinics at several rural courthouses to prevent evictions. The [Legal Aid Society of Greater Cincinnati \(LASGC\)](#) ramped up its efforts to prevent evictions during the pandemic. The Emergency Eviction Prevention Assistance Program, in partnership with Cincinnati-Hamilton County Community Action Agency and St. Vincent de Paul, uses a combination of cash rental assistance, negotiation with landlords, and client representation to prevent evictions. LASGC also helps clients register for CARES Act benefits and provides brief advice and service regarding unemployment benefits.

Income and Public Benefits Assistance

Income is unquestionably a concern for millions of unemployed Americans. In response to skyrocketing unemployment compensation applications, legal aid programs like SEOLS have expanded their services. SEOLS began helping with traditional unemployment and Pandemic Unemployment Assistance applications to put more money in the pockets of struggling families. Offering these additional services has helped the program identify systemic issues with the unemployment application process.

Legal aid's role in securing stability through public benefits representation has also become more critical than ever, as counties have expanded permissible uses of funds from the Prevention, Retention and Contingency program that helps low-income parents overcome barriers to employment, and essential workers in high-risk environments struggle to access adequate healthcare. Federal stimulus payments also carried with them additional impediments for low-income individuals who had not previously filed taxes. Legal services tax lawyers responded with self-help notices and instructions to help people navigate the process and get the additional benefits their family is entitled to under the CARES Act. Throughout Ohio, attorneys screened their cases and called individuals to see if they needed assistance completing the necessary forms, represented people in identity theft cases related to Economic Impact Payments and trained partner agencies on how to assist their clients.

In order to increase awareness of changes to public benefit programs, [Legal Aid of West Virginia \(LAWV\)](#) began immediately notifying current and former clients about policy changes. LAWV also uses the agency's existing outreach channels and community partnerships to share information and provide community assistance, such as with meal distribution sites and schedules.

The federal and state relief packages implemented by government leaders, legislatures, and the courts in response to the coronavirus are extremely complex, and low-income individuals must have access to the most up-to-date information in order to survive the economic effects of the pandemic. In Kentucky, [Legal Aid of the Bluegrass](#), through the development and continuous revision of fact sheets posted on the agency's website, has been proactive in providing vulnerable clients with information about eligibility for unemployment benefits, eviction and foreclosure protections, and access to the courts for survivors of domestic

The legal aid organizations mentioned in this piece are all grantees of the OFFICE FOR VICTIMS OF CRIME (OVC)'S *Enhancing Community Responses to the Opioid Crisis: Serving Our Youngest Crime Victims* grant program. To learn more about the program and its grantees, visit [UnitedForYouth.org](#) and the Summer 2020 issue of *The Guardian* to read the article "Stewarding Solutions to Meet the Needs of Children Impacted by Substance Use" (page 19).

► **Navigate COVID-19 Issues** from previous page



violence. They have also, in partnership with Goodwill Industries, held virtual clinics during the pandemic for low-income individuals seeking work and requiring assistance with expungements, housing issues, and consumer issues. Also, recognizing that the pandemic will likely create long-term changes in the way that courts do ordinary business, the organization is constructing dedicated self-contained rooms in which clients who lack access to technology may appear remotely for hearings and court business.

Education

Access to education has always been a priority for legal services programs, particularly focusing on the barriers encountered by students with disabilities, students of color, and students whose families are experiencing homelessness. With schools converting to virtual formats, particularly in rural communities where broadband access is spotty, legal services lawyers are fighting for an accessible education for all students.

Since Ohio school buildings first closed in response to COVID-19, [Advocates for Basic Legal Equality, Inc. \(ABLE\)](#) has been keeping parents informed of their rights through a series of fact sheets and Facebook Live videos that have reached more than 1,500 viewers in three languages. ABLE advocates surveyed parents throughout Northwest Ohio about their experiences during the closure and helped parents and other community members present testimony regarding their concerns at local school board meetings. ABLE has also filed a complaint with the Ohio Department of Education that has triggered an ongoing investigation into one public school district that allegedly failed to provide students with disabilities the services and supports they were entitled to under the law.

Throughout the crisis, staff attorneys have worked tirelessly to represent clients facing life-altering legal problems — clients like Cindy Kimbler,¹ an essential worker earning less than \$11 an hour. Kimbler reached out to the LASC after learning that 25% of her wages would be garnished to pay back a payday loan that she took out several years ago to repair her car. LASC helped her file a bankruptcy that stopped the wage garnishment and allowed her to continue to make her rent payments. “It really is going to help me get my life back on track,” she said. “It’s such a relief — a weight off my shoulders. I want people out there to know there is hope.”

Legal services programs across the nation continue to explore ways in which they can serve their mission to combat unfairness and injustice and to help people rise out of poverty. The unique services that legal aid provides are needed now more than ever. The pandemic has resulted in historic levels of unemployment and loss of family income, interrupted education for thousands of vulnerable children, closed access to services that protect domestic violence victims and laid bare the disparities in access to health care for Black, LatinX and low-income rural communities. Legal services providers will be there to mitigate the economic and related challenges that COVID-19 affected individuals and families experience in an effort to stabilize low-income families and break down systemic inequities for the next generation. ■

¹ Ms. Kimbler gave LASC permission to share her story.



PRACTICE TIPS

Q&A: Congregate Care and COVID-19

By **Cristina** and **Debbie Freitas**

What makes congregate care harmful for youth?

The nature and structure of congregate care make it more harmful for youth. Since congregate care is typically group home-level care, it is not the least restrictive or most family connected placement. Often, youth lose the connectedness to kin that allows them to thrive emotionally and mentally. Typically, these placements are in continual flux and have minimal supervision, which not only requires residents to adjust frequently to the unpredictable living arrangements,¹ it also creates a chaotic environment for youth with varied socio-emotional disabilities. Youth in congregate care are more susceptible to peer contagion effects due to negative socialization at the program,² which can shape deviant behaviors that the youth did not previously have. Congregate care also results in worse outcomes:

- Youth in congregate care are more likely to experience multiple placement moves in comparison to youth in foster homes;³
- Forty percent of arrests in the child welfare system are associated with congregate care placements;⁴
- The relative risk of delinquency is approximately 2.5 times greater for youth with at least one group home placement versus youth placed in foster homes;⁵
- Youth in congregate care receive lower grades and experience more truancy;⁶ and
- Youth in congregate care are less likely to graduate high school⁷ than their peers in foster homes.

1 Justeen Hyde and Nina Kammerer. *Adolescents' perspectives on placement moves and congregate settings: Complex and cumulative instabilities in out-of-home care*. 31 *Children and Youth Services Review*, 265–273 (2009).

2 Joseph P. Ryan, Jane Marie Marshall, Denise Herz, and Pedro M. Hernandez. *Juvenile delinquency in child welfare: Investigating group home effects*. 30(9) *Children and Youth Services Review*, 1088–1099 (2008).

3 See *supra*, footnote 1.

4 See *supra*, footnote 2.

5 *Id.*

6 *Id.*; Casey Family Programs. *What are the outcomes for youth placed in congregate care settings?* (2018). <https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/>

7 Annie E. Casey Foundation. (2015). *Every kid needs a family: Giving children in the child welfare system the best chance for success*. <http://www.aecf.org/m/ressourcedoc/aecf-EveryKidNeedsAFamily-2015.pdf>

ABOUT THE AUTHORS:

Cristina F. Freitas (L) and **Debbie F. Freitas** (R) are partners at Freitas & Freitas, LLP, in Lowell, Massachusetts, where they have represented parents and children in child welfare and juvenile cases in the juvenile court for 10 years.



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How are those harms impacted and/or magnified by COVID-19?

Youth in congregate care are even more at risk of harm compared to youth who live at home during COVID-19. In Massachusetts, data showed that youth in the child welfare agency's congregate care facilities were twenty-two times more likely to get COVID-19 than children living in their own homes.⁸

When you compare the Centers for Disease Control (CDC) guidelines⁹ for mitigating COVID-19 with the structure of congregate care, it's obvious that congregate care is ill-equipped to contain a contagious virus. Youth live in close proximity to one another and share many common spaces, making quarantine and isolation challenging. Kids in congregate care are also supervised by rotating staff and/or are in contact with residents who abscond from and return to the facility, which creates an increased risk of disease transmission. Youth may also experience increased isolation, anxiety, and fear as they face restrictions on in-person contact, activities, and access to school and health supports due to inadequate staffing or limited access to technology.

The placement instability that normally accompanies congregate care also multiplies as some youth will be moved to different programs or COVID-specific programs for treatment or temporary placement as staff or residents become ill or quarantine becomes necessary. Finally, compounding these potential harms, state licensing agencies that are responsible for ensuring every facility's safety may not be able to perform these monitoring functions during the pandemic due to limitations on visitors to facilities and mandates to work remotely from home.

What advocacy tips can you share with attorneys to help prevent youth being placed in congregate care?

Do your homework! In order to prevent youth from being placed in congregate care, you have to know about the congregate care program and about your client's needs so that you distinguish your client's individual needs from the program's capabilities. To learn more about the program, search the news, its licensing site, its contract/request-for-proposal (RFP) forms, police logs concerning the program, and speak with its program director. Then, compare the information you received with your client's needs. Too often the child welfare agency places a child in congregate care because of an open bed, rather than a good fit. Although the traditional analysis will be about what your client can gain from that environment in theory, be sure to explore those "gains" in practical detail and to examine what your client will lose, as well. Many times, the facility is far from family with whom the child will reunify, and the actual therapeutic services are not offered more frequently than the family could access in the community. Think about incorporating the data you collected into your motions and in the form of visuals, including charts, maps, and graphs — which are easy to read even when buried in a well-pled motion to the tired eyes of a trial court judge.

⁸ Massachusetts Executive Office of Health and Human Services COVID-19 Reporting: State-operated facility and congregate care site data. <https://www.mass.gov/info-details/eohhs-covid-19-reporting> (June 2020); Mass Department of Public Health COVID-19 Dashboard, <https://www.mass.gov/info-details/covid-19-response-reporting> (June 2020).

⁹ Center for Disease Control, Coronavirus Disease 2019 (COVID-19): How to Protect Yourself and Others. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> (July 2020).

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If attorneys have youth placed in congregate care, what advocacy strategies can they use to get those youth placed in family homes? Especially if there is a shortage of foster homes in an attorney's jurisdiction?

Remember that this youth came from a family, had friends, went to school, and was part of a larger community before she was put in state custody. All of those people — other family members, kin, teachers, coaches, and neighborhood friends are potential kinship foster resources. Stringent foster care standards shouldn't eliminate any of the people your client was used to spending time with before she was placed in state custody. If the agency is unwilling to place the youth in a kinship home, then ask for a hearing. Consider hiring an expert to help the judge understand the harms of congregate care, as well as a social worker who can find needed services and resources.

When you can't find a kinship home for your client, reunification with the right resources might be the easiest way to exit congregate care. Carefully track timelines for placement, goal achievement progress, and availability of in-home services to see if the youth could obtain comparable in-home services in the community. And finally, think about using reasonable efforts broadly--not just at the caseworker level, but at higher-up levels for failing to make reasonable efforts to contract with enough foster homes to provide your client with a safe, family-like, and appropriate placement as part of successful reunification.

If a young person needs to be placed in congregate care, how can attorneys advocate to mitigate the harms?

Mitigating harm from congregate placement means ensuring that your client's needs are being met. Utilize an escalating advocacy strategy to address concerns by first advocating with the program's management to implement changes that are consistent with public health, educational, and mental health guidelines and that promote your client's needs. If the facility agrees to modify their practices, set an implementation timeline with a date to follow up, and make sure that the modifications are written down and communicated to all.

As a second step, urge the youth's caseworker to advocate for modifications at the facility as well. If this is not working, convene a meeting including the program staff, the caseworker, the youth, and the youth's supports to develop an emergency support plan for the youth. The youth on their own, or through you, can make a complaint to the state licensing agency, ombudsman, or state child advocate office.

Finally, you can file an emergency motion in the court to compel the child welfare agency to provide for your client's absolute right to be free from harm. Since many courts have limited abilities during the pandemic, make sure you list all the efforts you've exhausted (as noted above) to demonstrate your good faith attempt to resolve the issue extra-judicially first. ■



RESEARCH EXCERPT

Child Welfare & Unaccompanied Children in Federal Immigration Custody: A Data and Research Based Guide for Federal Policy Makers

Introduction

Every year, thousands of unaccompanied children flee to the United States to escape abuse and persecution. Children who arrive without a parent or legal guardian are classified as “unaccompanied” and transferred to the custody of the Office of Refugee Resettlement (“ORR”), where they remain detained until they are released to sponsors.¹ Although the *Flores* Settlement Agreement provides basic standards for the treatment and release of detained immigrant children,² there are few federal laws that codify child welfare protections for this population.

The Use of Extended Institutional Care for Immigrant Children in Federal Custody

Immigrant children in federal custody may be placed in state-licensed child welfare facilities (“shelters”), residential treatment centers, varying levels of secure juvenile facilities, or federal foster care. From January 2018 to October 2019, an overwhelming number of unaccompanied immigrant children were detained in large-scale congregate care facilities for prolonged amounts of time, in spite of the well-established harmful effects of institutionalization and congregate care on children’s health and welfare.³ During those years:

- More than half of the unaccompanied children in ORR facilities were detained in facilities that held over two hundred children.⁴
- Thirty-three ORR facilities regularly held more than one hundred children at a time. By contrast, in the state child welfare context, foster care group homes typically house between seven and twelve children.⁵

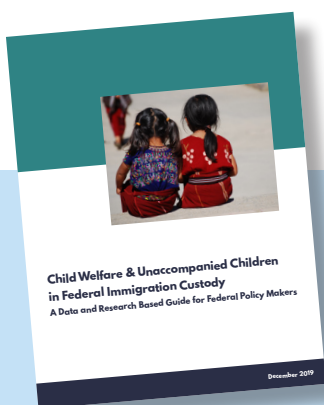
1 See *Child Welfare & Unaccompanied Children in Federal Immigration Custody: A Data and Research Based Guide for Federal Policy Makers*, p. 3 (hereinafter “Guide”).

2 See *Flores* Settlement Agreement, Case No. 85-4544-DMG-AGR, C.D. Cal.

3 See Guide, *supra*, note 1, at 9, 12.

4 *Id.* at 9.

5 *Id.*



FOR THE COMPLETE REPORT, SEE:

Neha Desai, Melissa Adamson, Elizabeth Pirrotta, Lewis Cohen & N. Ewen Wang, [*Child Welfare & Unaccompanied Children in Federal Immigration Custody: A Data and Research Based Guide for Federal Policymakers*](#), National Center for Youth Law, Dec. 2019.



▶ **Research Excerpt** from previous page



There was significant variation in children's average length of detention amongst different ORR shelters, and a substantial number of children were placed in multiple ORR facilities during their time in detention. Between January 2018 and October 2019:

- For different ORR shelters, the average length of detention varied from a low of 31.4 days to a high of 96.2 days.⁶
- In comparison, children who had any placement in staff-secure or secure facilities were detained an average of 198 days, and children who had any placement in residential treatment centers or therapeutic placements were detained an average of 243 days.⁷
- Excluding children who were stepped up to more restrictive placements, 1,463 children were placed and transferred to three or more facilities, and 228 children were placed and transferred to four or more facilities. Guide p. 7.

Over the past six months, the number of children in federal immigration custody has decreased dramatically. However, this number is artificially low, as the Trump Administration has unlawfully expelled almost 9,000 unaccompanied children under the guise of public health protection.⁸ Under this order, thousands of children have been expelled from the United States, and at least a few hundred children have been detained in unlicensed facilities instead of being transferred to ORR custody.⁹ It is expected that the number of children in federal immigration custody will sharply increase once this executive order is lifted.

A New Guide for Federal Policy Makers

Child Welfare & Unaccompanied Children in Federal Immigration Custody: A Data and Research Based Guide for Federal Policy Makers ("Guide") examines the detrimental impact of federal policies which increased the total number of immigrant children detained in ORR custody as well as the overall length of these children's detention from January 2018 to October 2019. The Guide outlines principles and recommendations regarding (1) where children should be placed, (2) the length of time children spend in custody, (3) what services children need, and (4) specific compliance measures to ensure that child welfare standards are meaningfully implemented.

Using new data analysis, child welfare research, and two decades of lessons learned from implementing the *Flores* Settlement Agreement, this Guide identifies seven recommendations based on child welfare principles to guide federal policymaking:

- Children must be released from government custody as quickly as possible.

⁶ *Id.* at 6.

⁷ *Id.* at 16.

⁸ See Order Suspending Introduction of Certain Persons from Countries where a Communicable Disease Exists, 85 Fed. Reg. 17,060 (Mar. 26, 2020) (effective March 20, 2020).

⁹ Camilo Montoya-Galvez, *ICE held 660 migrant kids set for expulsion in hotels, independent monitor reveals*, CBS, Aug. 27, 2020, <https://www.cbsnews.com/news/migrant-children-hotels-expelled-ice-flores-agreement-monitor/> ("[A]t least 577 unaccompanied minors were detained in more than 25 hotels between March and July while officials worked to expel them. Another 83 children have been held in hotels with their families during the same time period..").



► **Research Excerpt** from previous page

- Children must be placed in the most home-like setting possible.
- Children must be placed in state licensed facilities, and facility contracts must be routinely re-evaluated for performance, including average length of time that children are detained before release.
- Children must not be transferred to restrictive facilities without a compelling justification and meaningful due process.¹⁰
- Children must have access to meaningful, trauma-informed mental health services in ORR shelters.
- Children must have access to quality education and regular recreation.
- Children's rights must be protected through robust independent monitoring and data collection requirements.

A child's health, safety, and welfare are best protected by their family, not the state. This truth is borne out by well-established child welfare research as well as decades of experiences of child welfare systems throughout the United States. For the period of time in which unaccompanied children are in federal immigration custody, our country must do better. We must use data and research to provide for this vulnerable population in a way that, at the very least, does no further harm, and ideally, promotes their best interests. ■

¹⁰ Ideally, ORR would not be permitted to place a child in a secure facility unless the child had been adjudicated delinquent by a state juvenile court.

This Guide was co-authored by the National Center for Youth Law and the Social Emergency Medicine and Population Health Program at Stanford University. National Center for Youth Law's Immigration Team uses a combination of litigation, policy, training, and education to protect the rights of children in federal immigration custody as well as immigrant children in the child welfare and juvenile justice systems. The Social Emergency Medicine and Population Health Program at Stanford University is dedicated to medically caring for and promoting programs to serve vulnerable populations, researching social inequities at a population level, and disseminating findings in order to provide outcome-driven solutions.



RESOURCE SPOTLIGHT

Connect Our Kids Can Help Lawyers Fast-Track Permanent Connections for Children in Foster Care and At-Risk Youth

By [Jennifer Jacobs](#) and [Jessica Stern](#)

Fast-Track Connections for Children across the U.S. Today

In response to COVID 19, a young non-profit has released their smart technology tools ahead of schedule to help as many foster children and at-risk youth as possible. Prior to the global health crisis, [Connect Our Kids](#) was in pilot mode. However, the demand for this technology increased in mid-March, prompting them to make it widely available. Legal professionals nationwide have free access to innovative tools developed by *Connect Our Kids* to better serve their young clients.

Since mid-March, more than 600 lawyers, social workers, family recruiters, and CASA volunteers nationwide are utilizing Connect Our Kids' free platform to:

- Find permanent families for foster children;
- Build support circles around at-risk youth;
- Engage and identify contact information for extended family members;
- Create support networks for grandparents who are raising their grandchildren; and
- Establish strong mentorship communications for foster and at-risk youth.

ABOUT THE AUTHORS:



Jennifer Jacobs is the chief executive officer and a co-founder of Connect Our Kids, a non-profit using technology and data to improve outcomes for children in foster care. Prior to co-founding Connect Our Kids, Jennifer was a fellow and distinguished analyst at the Homeland Security Studies and Analysis Institute, and a White House Fellow in the class of '05-'06, serving with the National Security Council. Jennifer spent eight years at Sandia National Laboratories leading teams working in numerous foreign countries addressing nuclear security and border control.



Jessica Stern is the COO and co-founder of Connect Our Kids. Born and raised in St. Marys, Ohio, Jessica lived with a foster family as a young girl. One of eight children, Jessica has a great interest in reducing trauma and family separation. Jessica spent time working for the Governor of Ohio in the Office of Workforce Transformation and the Governor's Office of Appalachia. Jessica is a published author and child advocate.

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About the People Search Tool

People Search allows child welfare professionals to identify contact information for extended family members of the children being served. Using advanced technology, this tool uses public information from over 300 sources and covers more than 3 billion people. [Click to learn more.](#)

About the Family Connections Tool

The Family Connections tool enables professionals to build a visual family tree and/or support map (think Facebook meets Ancestry.com). With special permissions, professionals may collaborate as a team with trusted colleagues to ensure all involved have access to the latest information on file. Professionals can even work across organizations with social workers, other lawyers, and CASA volunteers. The Family Connections tool can also help your team track permanency search work. [Click to learn more.](#) ■

TESTIMONIALS:

“Relationship support is vital to prevent children from distressed households ending up in foster care. Relationship support is vital to empower children in foster care to achieve permanency. Relationship support is vital to prevent foster youth from crossing over to the delinquency system. Relationship support is crucial to prevent foster youth from human trafficking because pimps and predators exploit the isolation and loneliness of youth. Connect Our Kids helps build and preserve vital permanent connections for such youth that can enable them to avoid entry into the foster system, divert them from juvenile justice and protect them from exploitation or homelessness. Every Public Interest Attorney would benefit from commanding its power to invigorate the relationship networks around our most vulnerable clients.” — PAUL FREESE, Attorney and Member of the Board of Directors at Human Trafficking Legal Network

“Connect Our Kids tailored a virtual training for Colorado’s court-appointed parents’ attorneys, defense team social workers, and investigators so they can pursue zealous parent representation using every tool available. We expect departments of human services to search for families but our parent defense teams can also help families stay together through advocacy efforts like Connect Our Kids’ family finding technology.” — JILL COHEN, Director of Programs at Office of Respondent Parent Counsel

Visit ConnectOurKids.org to learn more about this innovative non-profit and gain access to this free online tool. [Connect with us to ask questions or sign up a training for you or your team.](#)



 **Connections Matter**



READER PANEL

Creating a Racially Equitable and Just Child Welfare System

The child welfare system has long grappled with racial disparity and inequity, and this year, child welfare leaders have called for a renewed focus on addressing those disparities and creating a racially equitable and just child welfare system. As individual advocates, how do you address racial disparities in your daily practice? What commitments have you made to increasing racial justice and equity in the child welfare system?

Jen Carreras, JD, CWLS

Forsyth County, Georgia | NACC State Coordinator for Georgia

In my experience as an attorney for families navigating the child welfare system, I have found my strongest weapon against inequity and racial or economic disparity is the judicial process in its purest form. I believe if the rules and principles of litigation are adhered to the way they are intended, and the advocate is performing his/her duty as required by law, the inequities will be exposed and corrected by equal application of the law and due process. An advocate's determination to meet this ideal standard results in uniform accountability for the courts, attorneys, agencies, and service providers.

Stacy L. Miller, JD, CWLS

**Assistant District Attorney General
Juvenile Court Team Leader | 20th Judicial District of Tennessee**

As an Assistant District Attorney at Juvenile Court, one of the ways that our office has worked with the court to address disparities in the system was to set up a Staffing Committee. Our Staffing Committee is composed of the Intake Supervisor, the Lead Public Defender at Juvenile Court, the Lead Prosecutor at Juvenile Court, the Victim Services Coordinator, and the Mediation Center Representative. We staff all non-violent offenses and divert those cases to service providers to keep juveniles who do not need to be further in the juvenile justice system from coming in the system. We have had excellent success in diverting cases and putting services in the homes of these kids and offering mediation services to assist the victims as well.

Courtney Lewis, JD, CWLS

**Assistant Public Defender | Alaska Public Defender Agency
NACC State Coordinator for Alaska**

I use data when it is available. It can be hard to point to explicit racism in an individual case. Instead, I cite to data about overall disparities, and intentionally use "the agency"

► **Reader Panel** from previous page



instead of stating “the caseworker.” It keeps the focus on the macro issue of systemic racism and deters a dismissive response in an individual case that the professionals assigned to the case aren’t racist.

The Honorable Aurora Martinez Jones, CWLS
Associate Judge | Travis County District Courts
NACC State Coordinator for Texas

In Texas, for years we have seen regular reporting to our legislature on the disproportionate number of children of color, particularly black children, in the child welfare system. We have discussed the need for implicit bias training and have been working towards solutions to address the apparent disproportionality. However, despite extensive progress that had been made several years ago, our system rolled back and comfortably settled into institutional inequities. We have seen that it takes diligence and work across all aspects of the system to even start to approach systems change. It has not been until recently, with focus and attention particularly on institutional racism on the national stage, that we have begun to approach the level of rigor needed in Texas to truly progress forward once more. Our State Bar’s Child Welfare Section has created a standing Multiculturalism Committee and myself, along with our state agency’s Disproportionality Manager, have co-founded a Child Welfare Race Equity Collaborative that brings a multidisciplinary approach to the issue of systemic inequities in the child welfare system while including and highlighting the voice of the community we serve. Our journey has not been easy, but it is persisting and gaining momentum. We are currently working together, across the state and with our State Bar’s Child Welfare Section, to create what we hope to be the gold standard in mandated reporter training in Texas, to be used across professions with mandated reporters. Our efforts include input from our local Casey Family Programs office, who is helping us look at how “reporting” can be re-imagined into “supporting.” We are learning from the past efforts that were fruitful and building on that foundation of education through a race equity lens. It’s a long road ahead, just like any effort for systems change. But we are ever hopeful that the result will mean a more equitable system of support and a process for which the children and families of Texas can heal and thrive without concern for being locked into a pipeline riddled with systemic failures and institutional racism.

Jill Malat, JD, CWLS
Children’s Representation Program Manager | Office of Civil Legal Aid
NACC State Coordinator for Washington

As a program manager I provide mandatory race equity training for my contract attorneys on how to litigate race equity issues in individual cases, tools for attorneys to recognize their own implicit biases and biases in the child welfare system, and how to identify and address systemic racist practices that they witness.

▶ **Reader Panel** from previous page



David J. Lansner, JD
Lansner & Kubitschek | New York, NY

Since the system is racist, fighting the system is fighting racism. Keeping children out of foster care is fighting racism. Children's attorneys must remember that foster care is a terrible experience for children, no matter how bad their own home is. We also need to fight against the daily humiliations – like conditioning return of a child on the parent keeping medical appointments for the child and giving the child her or his medicine. Judges don't need to tell parents to do that, but it is the usual course of business, so they do it, not thinking about how demeaning it is. In New York City, the City refuses to provide many services to families, and says that only CPS has to provide them. Instead of coordinating getting parents shelter in the homeless system, or adding children to welfare budgets, parents must go to offices and wait all day. It is both a punishment for being poor and a person of color, and a test to see if poor parents and parents of color really deserve their children. So, we need to fight the little things as well as the big ones.

Kathryn Newell, JD
Griffin Newell, LLC | Denver, CO

In the context of education, the school-to-prison pipeline disproportionately affects students of color. Challenging exclusionary school discipline practices continues to be important to achieving equity.

Rebecca E. May-Ricks, JD, CWLS
Attorney Supervisor, Mental Health Advocacy Service, Child Advocacy Program | Baton Rouge, LA | NACC State Coordinator for Louisiana

I think one of the most important things we can do is talk about racial injustice and disparity when we see it. Say it out loud. Say it on the record. Make sure it's discussed fully, and don't accept whatever excuse is offered for the difference in treatment. Continue to bring it up. If you see it, say it. It can't (usually) live in the sunshine. I was also trained early on by a wise judge that child welfare is an indirect extension of slavery. Once abolished, slavery has lived on in a million different ways - through incarceration, through education, through substandard medical care and housing, and through child welfare, for example. So if we approach the system as one of the ills in our country that Civil Rights legislation was trying to cure, then we are always thinking about the ramifications of racism, classism, and bias on our clients and our society as a whole. ■

JOIN THE PANEL!

Guardian readers are invited to join our Reader Panel. You'll receive an email asking for your responses to questions about child welfare legal practice. Selected responses will be featured in The Guardian. Please send an email to Kristen.Pisani-Jacques@NACCchildlaw.org letting us know you are interested in joining the panel.

NACC Policy News and Amicus Updates



POLICY NEWS:

NACC Testifies Before Kansas Legislature on Importance of High-Quality Legal Representation

In August, NACC testified before the Kansas Legislature's Special Committee on Foster Care Oversight regarding the importance of high-quality legal representation for all parties in child welfare cases. NACC Legal Director Allison Green urged the Committee and stakeholders utilize the new Title IV-E funding opportunity to invest in effective models of zealous advocacy proven to prevent foster care entry and expedite permanency. [Read more here.](#)



Allison Green, JD, CWLS
Legal Director
Allison.Green@NACCchildlaw.org

NACC Signs On to Federal "Supporting Foster Youth and Families through the Pandemic Act"

NACC supports the important bipartisan legislation intended to address the urgent needs of children and families during the COVID-19 pandemic. The Support Foster Youth and Families through the Pandemic Act would provide needed investments in the Chafee program for older youth, Title IV-E prevention dollars, the Court Improvement Program, and more. [Add your individual support here](#) or [organizational support here](#).

NACC & Partners Support the Child Welfare Emergency Assistance Act

NACC joined partners to advance the Child Welfare Emergency Assistance Act, which responds to the urgent needs of the child welfare system caused by the COVID-19 crisis, and reflects many of the recommendations elevated in an April 10 [sign-on letter to the House and Senate leadership](#). Find the [press release here](#), a [one-page summary here](#), and the [full text here](#).

Coronavirus Child Care and Education Relief Act Pending

Senator Murray has introduced a bill that includes \$1.5 billion to support the Child Abuse Prevention and Treatment Act and makes an explicit use of funds for purchasing PPE and other safety precautions to support the child welfare workforce in conducting in person or remote visits and investigations. You can review the [fact sheet here](#) and the [full legislative text here](#).

Urge Congress to Pass the Pandemic TANF Assistance Act

The Pandemic TANF Assistance Act would establish a new \$10 billion Coronavirus Emergency Assistance Grant program to help low-income families and individuals experiencing significant financial hardship during the COVID-19 pandemic. It would also temporarily waive work requirements and other barriers to assistance for TANF beneficiaries who may be unable to

► **Policy News and Amicus Updates** from [previous page](#)



complete program work requirements due to state economic closures, social distancing measures, illness or caring for a loved one. [Learn more here.](#)

Protect Miranda Rights for Kids!

In most jurisdictions, youth facing prosecution in adult criminal court do not have heightened due process protections despite the dire consequences of waiver. The National Registry of Exonerations found that roughly 40% of youth under 18 years old falsely confessed to a crime they didn't commit. For kids under 14, it is more than 85 percent. NACC recently endorsed the Protecting Miranda Rights for Kids Act, which would require that before children can be interrogated by police or waive their Miranda Rights, that they must consult with an attorney and their parent. If you are interested in supporting this legislation, please email [Jacqueline Serrano@mail.house.gov](mailto:Jacqueline.Serrano@mail.house.gov) in Congressman Cardenas' Office.

NACC Supports FAMILIES Act

NACC supports the FAMILIES Act, which would create a Parenting Sentencing Alternative (PSA) at the federal level while also funding current states with PSA programs and states interested in planning for such programs. [Join in support here.](#)

Standing Against Family Separation

Last month, a federal judge ordered U.S. Immigration and Customs Enforcement (ICE) to release all children in three family detention centers — two in Texas, one in Pennsylvania. The order stopped short of directing ICE to release parents together with their children. NACC joined a chorus of child advocates [urging the DHS to safely and immediately release all immigrant children together with their parents](#) from the family detention centers in the U.S.

Infant-Toddler Court Teams Make a Difference

NACC supports the Strengthening America's Families Act, which would spread the infant-toddler court team approach to build state and local systems that support a range of comprehensive, trauma-informed infant, toddler, and family services. The bill would also provide technical assistance to guide the states and local programs; almost 100 sites around the country have implemented this approach or are in the process of doing so. [Find out more here.](#)

NACC Urges Support for the Emergency Family Stabilization Act

The bipartisan Emergency Family Stabilization Act (EFSA), S. 3923, would create a new emergency funding stream administered by the Administration for Children and Families within the U.S. Department of Health and Human Services (HHS) to provide flexible funding for community-based organizations to meet the unique needs of children, youth, and families experiencing homelessness in the wake of the coronavirus. Funds could be used for a wide range of supports shown to prevent entry into foster care: housing, health, education, employment,

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training, and more. NACC was pleased to join partners in support of this important legislation. [Learn more here.](#)

NACC Joins Call to Boost SNAP Benefits

COVID-19 has exacerbated food insecurity in America. NACC joined a [sign-on letter](#) advocating for Congress and the White House to enhance SNAP benefits, suspend time limits and other rules curtailing eligibility and invest in nutrition programs with proven health and economic impacts.

Children's Bureau Releases New Guidance Around TPRs and Adoption Assistance

On June 23, the Associate Commissioner of the U.S. Children's Bureau, Dr. Jerry Milner, released a [letter to child welfare leaders](#) regarding TPRs, service delivery interruptions and adoption assistance in light of the COVID-19 pandemic. The letter strongly cautions strict adherence to ASFA timelines during the public health crisis, urges the use of statutory exceptions to the TPR filing mandate, and recommends that agencies complete an additional layer of review before filing a TPR petition.

White House Issues Executive Order on Foster Care

On June 24, the White House issued an [Executive Order on Strengthening the Child Welfare System for America's Children](#). The Order mandates the federal Department of Health and Human Services to "provide guidance to States regarding flexibility in the use of Federal funds to support and encourage high-quality legal representation for parents and children, including pre-petition representation." NACC looks forward to this guidance, which will be crucial to [our work helping states expand Title IV-E](#) to support legal representation. However, [as detailed by NACC Board Member Currey Cook of Lambda Legal](#), the Order also contains a number of concerning provisions for LGBTQ+ youth and families. NACC is a proud amicus partner fighting against precisely this type of discrimination in child welfare in the case of [Fulton v. Philadelphia](#), now headed to the U.S. Supreme Court.

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AMICUS UPDATES:

NACC Joins Hawai'i Amicus Brief in Support of Parent Right to Counsel

Young people in foster care benefit when all parties to a dependency action, including parents, receive high-quality legal representation throughout the entire case. NACC recently joined Lawyers for Equal Justice, the Legal Aid Society of Hawai'i, the ACLU of Hawai'i Foundation, and the National Coalition for a Civil Right to Counsel in an amicus brief advocating this position before the Supreme Court of the State of Hawai'i. [Read more here.](#)

ICPC Does Not Apply to Parents, Says Maryland's Highest Court

The ICPC does not apply to non-custodial, out-of-state parents [according to Maryland's highest court](#). The opinion affirmed NACC's position in its [amicus brief](#), which argued that doing so violates the plain language of the ICPC, the Constitutional rights of the family, and the best interest of the child. NACC's brief included [an appendix](#) with a detailed national survey of state case law on ICPC. [Read more here.](#)

NACC Joins Chorus of Amicus Partners in Supreme Court *Fulton* Case

In November, the Supreme Court will hear argument in the case of [Fulton v. City of Philadelphia](#), a case reviewing the city's anti-discrimination policy and its application to foster care contracting and licensing. NACC was proud to file an [amicus brief](#) with Children's Rights and 31 other partner child advocacy organizations educating the court about the discriminatory impact on LGBTQ+ youth and families should the lower court's holding not be affirmed. Briefs similarly urging the Supreme Court to affirm were also [submitted from a wide array](#) of government, academic, non-profit and philanthropic partners. NACC will continue to monitor developments in this critical case. ■

Policy Request: If you are working on Title IV-E or another child law advocacy project, and you believe NACC can assist you in achieving your goals, please submit a request using our [online form](#).

Amicus Request: The NACC Amicus Curiae Program promotes the legal interests of children through the filing of amicus curiae (friend of the court) briefs in state and federal appellate courts. We submit our own briefs and participate as co-amici in cases of particular importance to the development of law for children. To submit a request for the NACC to participate as amicus curiae in a case you are working on, please download and complete [NACC Amicus Curiae Request Form](#).

NACC Office Hours: NACC is available to assist members hoping to leverage [new federal Title IV-E funding opportunities](#) to support child and parent representation in their states and counties. Contact Allison.Green@NACCchildlaw.org to reserve time to ask questions, request resources, and brainstorm next steps to get things moving in your jurisdiction.



Ruthann Gonzalez
Membership Outreach Assistant
Ruthann.Gonzalez@NACCchildlaw.org



Sara Willis, MA
Business and Operations Director
Sara.Willis@NACCchildlaw.org

Membership Matters

Organizational Memberships

NACC's newly updated organizational membership program is designed to bolster the national NACC community by engaging child welfare offices and agencies from small teams to large agencies. An organizational membership provides Bronze-level membership benefits and discounts to your entire office, law firm, or agency. When your office joins NACC as an organizational member, all staff can enjoy access to member benefits and resources including monthly webinars, monthly newsletters, the quarterly Guardian, discounts on CWLS certification applications, training, conference, and more!

Learn more and [enroll your organization now!](#)

NACC State-Based Listservs!

NACC has recently launched state-based listservs in California, Florida, Georgia, Indiana, Montana, Nevada, and Oklahoma. These are supplements to our national listserv. If you are a practitioner who would like to join your respective state list, please email Allison.Green@NACCchildlaw.org.

Subscription Discount

NACC members receive a 10% discount on subscriptions to *The Imprint* (formerly known as *The Chronicle for Social Change*). Use code NACC10 at check out.



Platinum Memberships

When you [join or renew](#) your membership at the Platinum level, you receive all NACC member benefits for life! No notices, no renewals, just continued uninterrupted benefits. Lifetime Platinum Memberships cost \$2,500 and may qualify in whole or in part as a business deduction or charitable contribution (please see your tax advisor for more information). Help build NACC's platform with a [Platinum Membership](#).

Profile Update Reminder : if you haven't done so recently, please check your NACC Membership Profile and update it with your latest information and preferences. We have many NACC members and website visitors searching our directory looking for experts and networking opportunities.

Would you like to share something with the NACC Membership? [Send it to us!](#)

Forgot your username or password? It happens! Contact Membership@NACCchildlaw.org for a reset.



Thank you to our Platinum Lifetime, Gold, and Silver Members!

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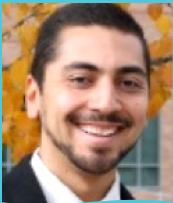
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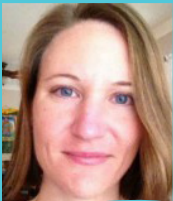


Child Welfare Law Specialist Certification

Congratulations to Our Newest Child Welfare Law Specialists!



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Director of Certification,
Sales, and Technology
Daniel.Trujillo@NACCchildlaw.org



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Ginger.Burton@NACCchildlaw.org

Valeree Adams, JD, CWLS

North Carolina Administrative
Office of the Courts
HIGH POINT, NC

David Cheung, JD, CWLS

Children's Law Center of California
MONTEREY PARK, CA

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[Download the application and review additional information today.](#)

[Discounted application fee](#) for NACC members: \$375 (Non-members: \$500)

Did you attend the NACC conference?

Conference attendees who submit their CWLS application by **October 31st** can get an additional **\$75 discount** by using promo code **20CONFOWLS** at check-out.

The application fee includes the exam and a hard copy of *Child Welfare Law and Practice, 3rd Edition* (shipped once application and fee are submitted).

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NACC Congratulates the 2020 *Promoting Excellence* Award Recipients!



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[Click here](#) to read more about these inspiring award recipients!

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THANK YOU TO OUR CONFERENCE ABSTRACT WORKGROUP:

Kathryn Banks • Kim Dvorchak • Allison Green
Abigail Hill • Michelle Jenson • Amy Karp • Erica Lemon
Kristen Pisani-Jacques • Cristal Ramirez • Christy Van Gaasbeek

THANK YOU TO OUR CONFERENCE WORKGROUP:

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Janet G. Sherwood, JD, CWLS, Conference Workgroup Co-Chair

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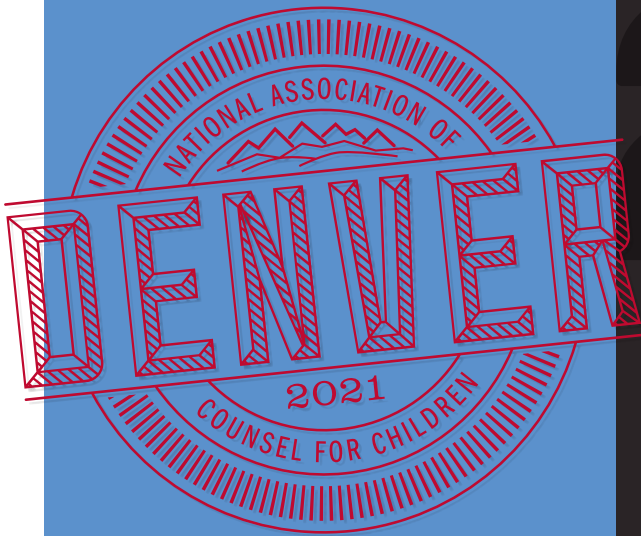
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Visiting Scholar, Temple University Beasley School of Law, Executive Director Emeritus, Juvenile Law Center - PHILADELPHIA, PA

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Visit the [Conference page at NACCchildlaw.org](https://www.naccchildlaw.org) for details as they become available.



Images: Flickr, Jeffrey Beall



Training

NACC's Online Red Book Training Course Fall Course has begun — and Winter Course Dates Announced!



Kristen Pisani-Jacques, JD
Training Director
Kristen.Pisani-Jacques@NACCchildlaw.org

NACC's online Red Book Training Course is designed to assist you in preparing for the Child Welfare Law Specialist (CWLS) examination and serves as an excellent review of core dependency competency areas. The material covered in the course is drawn from *Child Welfare Law and Practice: Representing Children, Parents, and State Agencies in Abuse, Neglect, and Dependency Cases* (3rd Edition "Red Book"). The course consists of seven weekly webinars. Participants can join the course live or watch/listen to recordings — *includes access to the electronic Red Book and course recordings for six months*. Hard copies of the Red Book are also [available for purchase](#).

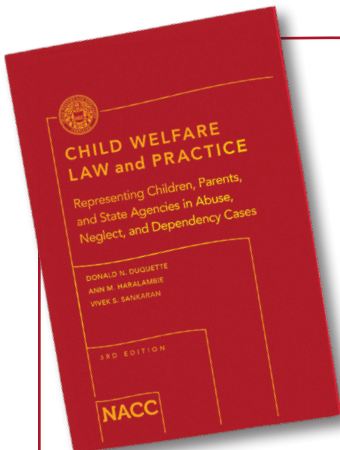
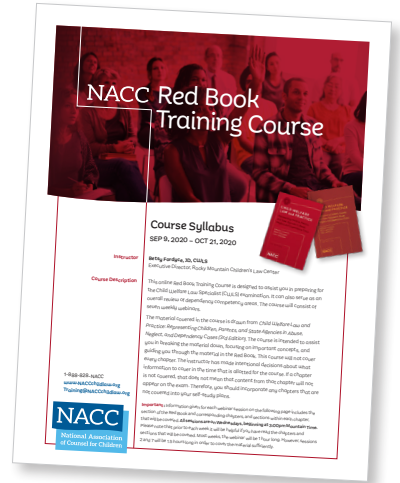
The cost is **\$200 per person for groups and NACC members** (\$100 for CWLS; \$275 for non-members).

FALL COURSE: September 9th through October 21st, 2020.
Registration for the fall course is open until October 20th.

Want to participate in the course live from the beginning? Join us for our final Red Book Training Course of 2020.

WINTER COURSE: November 4th, 2020 through December 16th, 2020. Registration will be available soon.

NACC staff is ready to assist in registering a group for the course, ordering hard copies of the Red Book, and/or coordinating a cohort to become certified as CWLS. Please contact Daniel Trujillo, NACC Certification Director, at Daniel.Trujillo@NACCchildlaw.org for group registrations, additional information about the course, or CWLS certification.



Order your Red Book now!

	NACC Members	Non-Members
Hardcover	\$ 99	\$ 149
Order online: NACCchildlaw.org/RedBook		
By phone: 1-888-828-NACC		
Via email: Advocate@NACCchildlaw.org		

Please inquire about discounts for bulk orders.

▶ **Training** from previous page

Upcoming Town Hall:



Foster Youth Financial Stability and Empowerment

We invite you to join us at a town hall meeting to discuss ways to improve transition-age youth financial stability and empowerment.

- This will be a national forum for conversation.
- A platform to learn best practices from others.
- Hear effective strategies to resolve client financial issues.
- Discuss policy solutions to improve outcomes.

Tuesday, October 6, 2020

12:00–1:30pm PST

If interested in participating, please RSVP
at Kristen.Pisani-Jacques@NACCchildlaw.org. ■

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▶ [Training](#) from previous page

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<p>Trauma-Responsive Skills for Lawyers – Part 2: Working with Clients in Crisis Presenter: Cynthia Bowkley, JD, CPPM, SE Advanced Student</p>			PENDING
<p>Meaningful Youth Engagement in a Virtual Legal World Presenters: Shobha Lakshmi Mahadev, JD, Robert Latham, JD & Dani Townsend <i>Open to members and non-members</i></p>			
<p>Don't Minimize the Moment: Truth, Reparatory Justice, and Healing for Black Families who are Descendants of Captive and Enslaved Africans in the U.S. Presenter: Stephanie S. Franklin, JD <i>Open to members and non-members</i></p>			
<p>Children and Families at a Crossroads: Client Centered Cross-Practice Representation of Undocumented Children Presenters: Melissa Paul-Franklyn, JD, Cristina "Tina" Romero, JD, Jadera Ramirez-Garcia, JD, MSW & Jordyne James, LMSW</p>			
<p>Advocacy for Youth in Congregate Care during COVID-19 Presenters: Jennifer Rodriguez, JD, Jennifer Pokempner, JD & Tom Welshonce, JD <i>Open to members and non-members</i></p>			
<p>Trauma-Responsive Skills for Lawyers During COVID-19 Presenters: Rebecca M. Stahl, JD, LLM, SEP & Cynthia Bowkley, JD, CPPM, SE Advanced Student <i>Open to members and non-members</i></p>			
<p>The Next Level: Appellate Practice in Child Welfare Cases Part I Presenters: Melissa Colangelo, JD & Abraham 'Abe' Sisson, JD</p>			
<p>The Next Level: Appellate Practice in Child Welfare Cases Part II Presenters: Melissa Colangelo, JD & Abraham 'Abe' Sisson, JD</p>			
<p>Zealous Advocacy During COVID-19: Practical Tips and Best Practices Presenters: Jenny Pokempner, JD, Jennifer Rodriguez, JD, & Chris Henderson, JD <i>Open to members and non-members</i></p>			
<p>How to Use the Federal Reasonable Efforts Requirement to Advocate for Older Youth Presenters: Kristen Pisani-Jacques, JD & Jenny Pokempner, JD</p>			
<p>What Do Foster Youth and Other Stakeholders Want from Their Lawyer? Research Findings Chart the Course to High-Quality Legal Representation Presenters: Jay Miller, PhD & Jessica Donohue-Dioh, MSW, PhD</p>			
<p>New Legal Resources for Incorporating the Family First Act into Your Practice in 2020 Presenters: Prudence Beidler Carr, JD & Cristina Ritchie Cooper, JD Moderator: Allison Green, JD, CWLS</p>			



Cristal Ramirez, MS
Youth Coordinator
Cristal.Ramirez@NACCchildlaw.org

NACC Welcomes Our New National Youth Advisory Board!

NACC is thrilled to welcome this inaugural group of young adult leaders onto NACC's National Youth Advisory Board. The board — to be officially named by its members this fall — is comprised of young professionals, advocates, and leaders who have navigated the child welfare system and seek to contribute their expertise to advancing NACC's mission and core strategies.

Shéar Avory

NEW YORK, NY



Shéar Avory (they, them, theirs) is a Black and Indigenous nonbinary trans femme and social justice advocate committed to the advancement of social, economic, racial, gender, and disability justice and the empowerment of young people. Since the age of thirteen, Shéar has been a leading voice of youth activism through national participation in movements for social justice. They're currently a Policy Associate at the Office of the New York City Public Advocate; Director of Xchange For Change — a national partnership between Lambda Legal and Baker McKenzie; a Community Portrait Research Analyst of the What's Your Issue? National LGBTQ Youth Survey in fellowship with the Public Science Project of the Graduate Center at the City University of New York; and previously served as the 2018 Biden Fellow for LGBTQ Equality at the Biden Foundation.

Ivory Bennett

DALLAS, TX



Ivory Bennett is a 29-year-old whose pronouns are she, her, and hers. She is a former foster youth who spent 17 years in foster care in Western Pennsylvania. She lived in roughly 10 foster homes, 4 kinships care homes, and 1 shelter and subsequently attended roughly 12 different schools in 3 different counties.

Ivory has a dual degree from The University of Pittsburgh in Africana Studies and English Literature with a minor in Theatre Arts. She is currently enrolled at Concordia University where she will graduate in December of 2020 with a Master's in Education Administration with a Principal Certification; recently, she completed coursework at Texas A&M University — Commerce, to become dually accredited as a high school teacher and as an English professor. Ivory currently works as an English teacher and a cheer coach. Moreover, Ivory is a passionate advocate for current and former foster youth. Her foster care advocacy work began at the age of 16, when she first entered Ward Home Inc.'s Independent Living program. Ivory was actively involved in Pennsylvania's Youth Advisory Board — in fact, she designed the logo it still uses to this day. Additionally, Ivory assisted in re-search for Dr. Mary Rauktis' 2011 publication, "Try to make it seem like we're regular kids" Children and Youth Services Review 33, 1224–1233. Ivory is excited for the work she will do with NACC.

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Courtney Canova

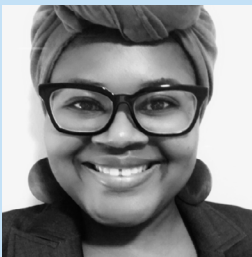
SPOKANE, WA



Courtney Canova is an alumnus of foster care from Washington State. She graduated with her Bachelor of Arts in Social Sciences and Human Development from Washington State University and is now a graduate student at Gonzaga University pursuing her Master's in Communication and Leadership with an emphasis on Organizational and Strategic Communication. She holds nearly a decade of child welfare advocacy work, partnering with state departments, service providers and advocacy coalitions. Courtney is a current member of the National Foster Care Youth and Alumni Policy Council; an inaugural youth policy council member for the National Association of Counsel for Children; and serves on the youth advisory board for the Washington State Department of Children Youth and Families. During employment Courtney developed and launched a community-based primary prevention initiative as the Director of Community Engagement at the Boys and Girls Clubs of King County and, most recently, embarked on successful legislative advocacy as Advocacy Lead and Lobbyist on behalf of The Children's Home Society of Washington. Courtney is a mother of two young boys and enjoys spending time with them in the outdoors when she is not advocating for system reform.

LilCrystal Dernier

MARGATE, FL



LilCrystal Dernier, 28, is a native-born Floridian. Ms. Dernier is an alumnus of Broward County's foster care system. Despite the challenges she's faced, she's a first-generation high school and college graduate. She attended Florida A&M University and received a Bachelor of Science in Criminal Justice and Psychology and with a minor in Business Administration. She also received a Master of Science in Criminology and Criminal Justice and a Master of Nonprofit Management (MNM) at Florida Atlantic University.

Although Ms. Dernier is committed to her academic studies, she's dedicated her life to child advocacy work. She served as a Volunteer Guardian Ad Litem for the Second Judicial Circuit of Leon County in Tallahassee, FL and currently serves as a Volunteer Child Advocate with Seventeenth Judicial Circuit in Broward County, FL. In the summer of 2016, Ms. Dernier simultaneously held two internship positions — one as a Foster Youth Intern (FYI) at Congressional Coalition on Adoption Institute (CCA) and the other as Congressional Intern with former U.S. Senator Bill Nelson (D-FL) in Washington D.C. As a FYI, she researched and wrote a policy report on placement stability and healthy relationships for foster youth. She proposed a model curriculum called Secure Attachment Training (SAT) to assist youth navigating and building meaningful connections with their caregivers and peers. In 2018, Ms. Dernier was selected to participate in the Congressional Foster Youth Shadow Week with National Foster Youth Institute (NFYI). She shadowed House Representative Ted Deutch (D-FL) discussing reoccurring issues in child welfare.

Ms. Dernier currently works as a Success Coach with YMCA of South Florida where she assists and advocates for at-risk youth by providing well-rounded support to ensuring their academic and personal success. Due to her many interests, Ms. Dernier is preparing to attend law school to study family law. In her personal time, Ms. Dernier, enjoys watching Bollywood movies and creating life lesson material for children and youth.

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Jen Ha

SAN DIEGO, CA



As a first-generation college student and former foster youth, Jen recently graduated from San Diego State University with a Bachelor of Arts degree in Political Science and Religious Studies with a goal to become a Child Advocacy Lawyer. Jen volunteered teaching students English in Thailand and volunteered creating interactive activities with people diagnosed with intellectual disabilities in Colombia. In addition, she was a former intern to the City of San Diego, City Hall and the San Diego County Board of Supervisors Office. During her time interning for the San Diego County Board of Supervisors, Jen has collaborated with different counties across the nation to gather cross-sectional data and provide analysis on the various child welfare systems. Moreover, to continue her advocacy work, she participated in the Child and Family Strengthening sub-committee monthly meetings and is currently a member of the Just in Time Council to Create Change for Foster Care. In her free time, Jen enjoys lifting weights, reading, traveling, and picnics at the park.

Stormy Lukasavage

TOPEKA, KS



Stormy Lukasavage spent three years in foster care in the state of Kansas. He was born in 1995 in the state of New Mexico. It would be fifteen more years until he would enter the foster care system. As soon as Stormy entered the system he started his advocacy career. He first started working on the state's tuition bill which would grant foster youth a tuition-free college experience. After that, it was Senate Bill 23 on which Stormy worked. Senate Bill 23 enables foster youth to graduate from high school with an altered curriculum. He used that to graduate as a junior and jump straight into college.

In his college years, Stormy would become president of his state council. He would organize the two largest conferences held for youth in the summer back to back while also supervising them. He would also attend proclamation signings, foster family training, and numerous panels. Stormy graduated from Washburn University in spring of 2019 with a Bachelor's of Science in Criminal Justice and a minor in Theater. He made the Dean's Honor Roll several times while in college as well. And straight after graduating, Stormy would attend National Shadow Day as a Shadow Day Participant. Stormy Lukasavage also holds a National Young Leader award from FosterClub, as well as being the first ever All-Star from the state of Kansas.

Tisha Ortiz

LIVERMORE, CA



Tisha Ortiz (she/her/hers) is a student at California State University East Bay and a Youth Ambassador with the National Center for Youth Law (NCYL). With NCYL she has worked on an expert panel giving testimony and expert opinion on the topic of mental health and psychotropic medications; participated and organized testimonies from youth across California; and spoken on SB 484, SB 319, SB 1174, and others as an expert testimony witness at the California State Legislature. She also did grassroots organizing on bill pack-ages over the better treatment of foster youth. When not doing advocacy work, she enjoys being in the company of friends, going on hikes or to the movies. Watching Netflix shows like Umbrella Academy is also one of her favorite things to do especially during COVID-19.

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Duane Price

PHILADELPHIA, PA



Duane Price (He/Him/His) is an 18-year old student at Community College of Philadelphia and a Youth Advocate with the Youth Fostering Change (YFC) Program at Juvenile Law Center (JLC). As a Youth Advocate, his goal is to help push Foster Care Reform and during his time at YFC, he has worked on many things such as giving strong opinions and suggestions on the topic of mental health and psychotropic drugs. He is also helping explore other alternatives to help prevent youth in the Philadelphia area and surrounding counties from entering into the foster care system in the first place for certain reasons. In high school, Duane joined a program called Peer Counsel where he would share his personal stories in classrooms throughout the Philadelphia area, and at the Philadelphia Police Department's training academy. Price's enthusiastic participation in this program included visits to three colleges and 20 schools, plus three sessions at the police academy. He enjoys helping people, for this is the reason why he continued wanting to make a change in the child welfare system. Duane's goal one day is to become a Legal Child Advocate.

Jasmine Snell

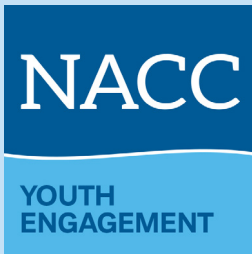
CHATTANOOGA, TN



Jasmine Snell (Tennessee) is a graduate of the University of Tennessee at Chattanooga with her Bachelor of Science in Accounting and minor in Criminal Justice. While in college, Jasmine was a track athlete and served as both a mentor and tutor to her peers. She is an entrepreneur with plans of using her degree to grow her hair styling business, Jagged Hair, into a national brand. Locally, Jasmine serves as a Youth Representative on the Hamilton County Community Leadership Board, Citizen Review Board, and Living Transition Coalition. Jasmine is also a Jim Casey Young Fellow with the Annie E. Casey Foundation, where she uses her expertise to influence policy reformation within the child welfare system. Jasmine actively pursues opportunities to further both her volunteer work within the community and advocacy work nationally — work which she believes serves to abolish discriminatory and unjust policies within the child welfare, juvenile justice, and thus criminal justice systems. Jasmine enjoys giving back to youth through mentorship and is very passionate about improving the outcomes for youth and families nationwide. Eventually, Jasmine would like to foster kids herself and adopt. Her ultimate goal is to start a school for youth aging 4–20 years old that maintains and sources food from a community farm.

Ariella Stafanson

ANN ARBOR, MI



Ariella Stafanson is a law student at the University of Michigan Law School. In law school she gives back to the local community by representing youth in school disciplinary proceedings. Outside of the child welfare sphere, prior to law school, she worked for a consulting firm that used data and survey methodology to inform nonprofits and government agencies how to better serve their constituents. Within the child welfare sphere, she was the Public Policy Fellow for California CASA where she assisted in drafting bills, attended stakeholder meetings, edited All County Letters, and worked with the state Ombudsman's office. She additionally has trained county social workers and CDSS on how to make environments youth-friendly and led individual living skills classes for local foster youth. When not studying she enjoys taking friends backpacking, trying new recipes, riding her bike, and is constantly looking for the best breakfast burrito.

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Aleks Talsky

MILWAUKEE, WI



Upon aging out of the foster care system, Aleks earned a Bachelor of Art and Honors Degree on a full-tuition scholarship at the University of Wisconsin Milwaukee. Her passion to help historically underrepresented groups led to her leadership roles on campus. While earning her paralegal certification from the University Legal Clinic, Aleks served as the Office Manager training paralegals on how to provide free legal advice for students. Through an organization known as Fostering Success, she used her knowledge and personal experience with the child welfare system to support former foster youth on campus. Following graduation, as a Foster Youth Intern®, Aleks authored an in-depth child welfare policy report, Promoting and Tracking College Success for Current and Former Foster Youth, which was published and presented to Health and Human Services, Congress, and the White House. Currently, Aleks is a legal assistant with Michael Best & Friedrich. As a foster care advocate and experienced legal professional, Aleks hopes to provide a significant role in ensuring all children have high-quality legal representation.

Aliyah Zeien

HAMMOND, LA



Aliyah Zeien is originally from New Orleans, LA and she is 24 years old. She is the oldest of five siblings. She is an alumni of the Louisiana foster care system. She prides herself in being a registered social worker with Louisiana Methodist Children & Family Services working directly to deliver services that enhance the quality of life and promote normalcy/permanency for youth in foster care. She obtained her bachelor's degree in 2017 in Social Work from Southeastern Louisiana University. Since then she has become a powerful legislative advocate working to transform the child welfare system. In 2018, Aliyah completed a legislative internship advocating for youth and testified in front of the Louisiana Senate to assist with the passage of Senate Bill 109 which officially extended foster care in the state of Louisiana. She is the current Communications Officer for the Louisiana State Youth Advisory Board. She also regularly works with DCFS policy makers to reshape foster care policies and shares her experiences at conferences such as "Together We Can" with child welfare professionals across the state. In 2019 Aliyah paired with three fellow board members to complete the first Louisiana Foster Youth Bill of Rights. During COVID-19 Aliyah has diligently participated in the UP CHAFEE campaign. She has recently been accepted into LSU to begin her Master's degree in Social Work. Aliyah enjoys arts & crafts, spending time with family/friends, going to the beach, watching crime shows, and baking. Aliyah is the owner of LiLi's Heavenly Sweets and Treats where she creates sweets of all kinds, gift baskets, and cakes. Her purposeful passion is advocating on behalf of youth in foster care and ensuring their voice is heard. ■

If you would like to contact a youth board member to support child welfare reform in your state please contact NACC Youth Coordinator Cristal Ramirez at Cristal.Ramirez@NACCchildlaw.org.



NACC Board of Directors Nominations and Applications Welcome!

The Nominating Committee of the National Association of Counsel for Children invites applications for open positions on [NACC's Board of Directors](#).



Deadline to Nominate: October 16, 2020

Deadline to Apply: October 30, 2020

[Apply or Submit Nominations Here](#)

About NACC

The National Association of Counsel for Children (NACC) is a 501(3)(c) non-profit organization headquartered in Denver, CO, with staff and board members in multiple locations across the country. NACC's core programs Promote Excellence, Build Community, and Advance Justice. NACC promotes excellence in legal representation through attorney training programs, publication of the seminal Child Welfare Law and Practice guide, and Child Welfare Law Specialist (CWLS) certification. NACC builds community through our professional membership association program, State Coordinators, national conference, and affinity groups, such as the Children's Law Office Project. NACC advances justice for children and families through policy advocacy, systemic reform, technical assistance, and amicus curiae briefs.

In 2018 NACC adopted a new [strategic plan](#) which calls for significant organizational growth and program impact: to provide more resources to attorneys, to build a community of support around zealous legal advocacy, and to engage practitioners in systemic policy reform. In 2020 NACC hired a Youth Coordinator, selected a National Youth Advisory Board, and participated in racial equity training. NACC is committed to increasing diversity, equity, and inclusion within our membership and within the child welfare legal community. NACC seeks new Board Directors to help us advance these goals.

Board Recruitment

First and foremost, *NACC seeks applications from individuals who bring racial and ethnic diversity to the board, and who have lived experience in the child welfare system.* NACC also seeks individuals who bring diversity in age and geographic locations. Specific categories of expertise also sought include:

- Accounting/CPA/Budget
- Marketing/PR/Communications

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- Research and Evaluation
- Corporate Counsel & Law Firm Partners who are in a position to leverage pro bono and in-kind assistance
- Psychologists/Psychiatrists/Social Workers/Behavioral Health Professionals who are knowledgeable in child and adolescent development, trauma, and family strengthening and support



Board Responsibilities

NACC is governed by a national Board of Directors which meets four times a year, including at NACC's Annual Conference. Board service is currently a six (6) year renewable term. All NACC board members are expected to give their time, talent, and treasure to the organization.

Nomination/Application Process

All interested applicants are welcome to apply. You may nominate another person to the Board or you may submit your own application using NACC's online form on NACC's Board Nomination webpage. NACC's Nominating Committee reviews applications, conducts interviews, and then submits Board candidates to the full NACC Board for re-view. Final candidates are presented to NACC membership for a vote in December. Board terms commence in January. If you have questions about Board service or the application process, please contact Kim.Dvorchak@NACCchildlaw.org. ■

NACC Staff and Board

NACC Staff

Kim Dvorchak, JD
Executive Director
Kim.Dvorchak@NACCchildlaw.org

Ginger Burton
Certification Administrator & Technical Writer
Ginger.Burton@NACCchildlaw.org

Ruthann Gonzalez
Membership Outreach Assistant
Ruthann.Gonzalez@NACCchildlaw.org

Allison Green, JD, CWLS
Legal Director
Allison.Green@NACCchildlaw.org

Kayley Nagle
Communications Assistant
Kayley.Nagle@NACCchildlaw.org

Kristen Pisani-Jacques, JD
Training Director
Kristen.Pisani-Jacques@NACCchildlaw.org

Cristal Ramirez, MS
Youth Coordinator
Cristal.Ramirez@NACCchildlaw.org

Daniel Trujillo
Director of Certification, Sales, and Technology
Daniel.Trujillo@NACCchildlaw.org

Sara Willis, MA
Business and Operations Director
Sara.Willis@NACCchildlaw.org

Departments

Advocate@NACCchildlaw.org
Certification@NACCchildlaw.org
Comms@NACCchildlaw.org
Conference@NACCchildlaw.org
Membership@NACCchildlaw.org
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Training@NACCchildlaw.org
Youth@NACCchildlaw.org

The National Association of Counsel for Children is dedicated to advancing the rights, well-being, and opportunities of children impacted by the child welfare system through high-quality legal representation.

- # Promoting Excellence
- # Building Community
- # Advancing Justice

The Guardian is an NACC publication.
Kristen Pisani-Jacques, Editor

National Association of Counsel for Children
1600 Downing Street, Suite 410
Denver, CO 80218
1-888-828-NACC · 303-864-5320

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