

**Committee on Homeland Security and Governmental Affairs
Subcommittee on Oversight of Government Management,
the Federal Workforce, and the District of Columbia
Assessing Foster Care and Family Services in the District of Columbia:
Challenges and Solutions
Tuesday, March 16, 2010
Testimony of Judith Meltzer
Center for the Study of Social Policy**

Good morning Chairman Akaka and members of the Subcommittee, thank you for inviting me to testify today on the issue of permanency for children in foster care in the District of Columbia. I am Judith Meltzer, the Deputy Director of the Center for the Study of Social Policy.¹ I serve as the Federal Court-appointed Monitor for the LaShawn A. v. Fenty class action lawsuit.

Over the years, I have had the advantage of working closely with a number of child welfare systems across the country. This allows me to understand the nuances of a particular state or local system, as well as to assess an individual system in context with others in the nation. I have had the great privilege of learning a great deal about the strengths and weaknesses of child welfare policy and practice and the importance of permanency for children and youth in foster care. I have also had the opportunity to learn in-depth about the experiences of foster children in the District of Columbia. As a result, I know that there are opportunities to improve the child welfare system in the District of Columbia that can result in improved outcomes for the children in their care.

The Importance of Permanency

All children – regardless of age, race or ethnicity – need and deserve a safe, nurturing family to protect and guide them. This should go without saying, but for children and youth involved in the child welfare system, it is extremely important. Within the child welfare field, *permanence* means that a child will have a family that can provide for their safety and healthy development and that the family will be there for the child for a lifetime. Permanency can be achieved

¹ The Center for the Study of Social Policy is a non-profit organization that promotes policies and practices that improve the living conditions and opportunities of low-income and other disadvantaged persons. The Center partners with communities, and all levels of government to shape new ideas for public policy; provides technical assistance to states and communities; and develops and leads networks of innovators. The Center believes that families have a right to opportunities for improved living conditions and better futures for their children; that the diversity in our nation and within states, communities and neighborhoods is a strength and a powerful force for productive change; and that positive change for children and families is possible and can be promoted and sustained by government working in partnership with community and families. See www.cssp.org.

through a number of different avenues: safe family reunification is the preferred choice, but permanency also includes kinship/guardianship and adoption.

Research shows that children who exit foster care to a positive permanent family have better outcomes than those who exit care to emancipation without family connections. The statistics paint a stark picture, with emancipated youth more likely to be homeless, to drop out of school, to become teen parents and to be unemployed.² On the other hand, youth who leave foster care to permanency are more likely to be stable, have health insurance, attend school and be resilient.³ We now know that an attachment to a supportive adult, related or unrelated, can be one of the key variables to ensure resilient children who are more likely to succeed in school, exhibit leadership and overcome adversity.⁴

In addition, national data point to the overrepresentation of families of color, particularly African American and Native American families, in the child welfare system. These groups generally experience higher rates of out-of-home care and worse permanency outcomes.⁵

Permanency v. Stability

It is important not to mistake stability for permanency and decide that stability alone is an acceptable outcome for children in foster care. While stability for a child, meaning not moving to multiple foster homes and continually having to change schools, is vitally important to children in foster care, it is not sufficient. Making a choice for stability over permanency is, in my view, short-sighted because it too often leads to bleak outcomes for children. While a child who has been placed with a foster family for a significant period may have an intact stable relationship in the moment, this does not necessarily mean that the family is committed to be involved throughout the youth's life as he or she goes to college or takes a job, becomes an independent adult and sometimes becomes a parent. You will hear in later testimony today about the significant and often painful challenges that youth face when they grow up without a family. While there are clearly instances where systemic barriers make foster care without permanency an understandable alternative in a particular case, as a policy direction, it shortchanges the futures of too many children.

Fostering Connections

In 2008, Congress passed and the President signed into law the *Fostering Connections to Success and Increasing Adoptions Act* (Fostering Connections) in an attempt to increase focus on permanency for children. Fostering Connections is an important step to helping States improve permanency outcomes for children in foster care. Fostering Connections promotes permanency by requiring notice to relatives when children enter care, by subsidizing

² Casey Family Programs (2008). Improving Outcomes for Older Youth in Foster Care. Retrieved from http://www.casey.org/Resources/Publications/pdf/WhitePaper_ImprovingOutcomesOlderYouth_FR.pdf

³ Seigel, G.L. (2009). Permanency and Child Well-Being: An Examination of Preliminary Data from the Minnesota Permanency Demonstration. Retrieved from <http://www.iarstl.org/papers/MNPermanencyEffects.pdf>

⁴ Charles, K. & Nelson, J. (2000). Permanency Planning: Creating Life Long Connections: What Does it Mean for Adolescents. Retrieved from <http://www.nrcys.ou.edu/yc/resources/publications/monographs/mono.pdf>.

⁵ Dunbar, K., & Barth, R. (2007). Racial disproportionality, race disparity, and other race-related findings in published works derived from the national survey of child and adolescent well-being. Retrieved from <http://www.f2f.ca.gov/res/pdf/RDDOtherRelated.pdf>

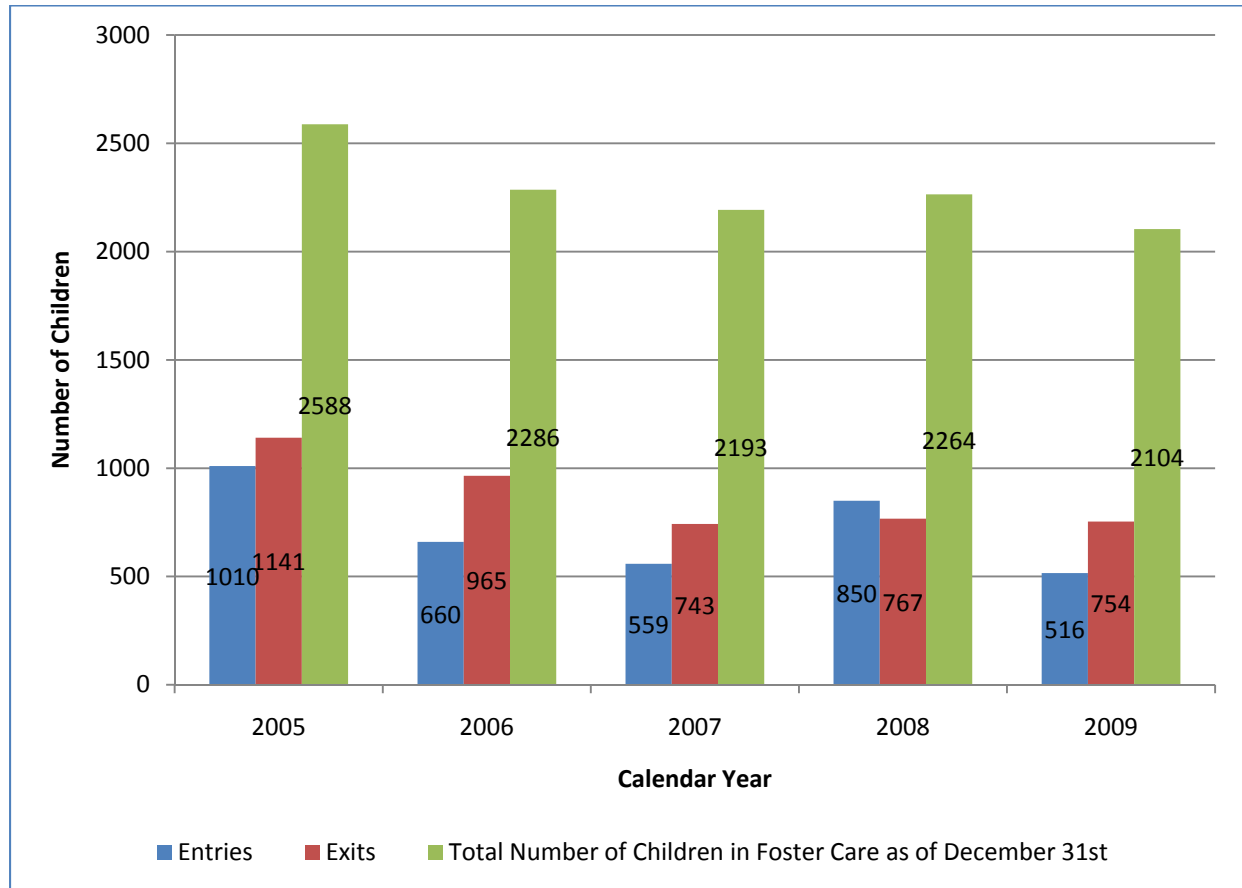
guardianship payments for relatives and by incentivizing adoption. Additionally, Fostering Connections provides continued support to youth who turn 18 without a permanent connection and requires that States ensure children and youth attend school and when placed in foster care, remain in their same school where appropriate or get help transferring promptly to a new school. However, many of the provisions of the Act are optional and require the commitment of new state resources and legislative changes to existing state or DC law.

District of Columbia Data

Despite many improvements in child welfare services in the District of Columbia and at the Child and Family Services Agency (CFSA) in the past ten years, progress in reducing the length of stay in foster care and in ensuring a permanent home for every child has not been achieved. As of the end of fiscal year 2008, 60% of children in foster care in the District of Columbia had been in out-of-home placement for 24 months or more. Since 2005, there has been a *decline* in the total number of children and youth exiting care by achieving positive permanency outcomes with lifelong caring adults. Too many children remain in the custody of the District far too long with insufficient progress toward permanency with a family, despite timeframes that are established in federal law, District law and best practice standards. The District is below the national median and is not meeting the national CFSR standards on all permanency measures used to evaluate state performance.

As seen in Figure 1 below, the number of children entering out-of-home placement has been declining with 1010 children entering or re-entering foster care in 2005 and 516 children entering or re-entering foster care in 2009. The total number of children in out-of-home placement has also declined, but not as significantly, from 2588 children in foster care as of December 31, 2005 to 2104 children in foster care as of December 31, 2009.

Figure 1: Number of Children Entering and Exiting Foster Care by Calendar Year and Number of Children in Foster Care



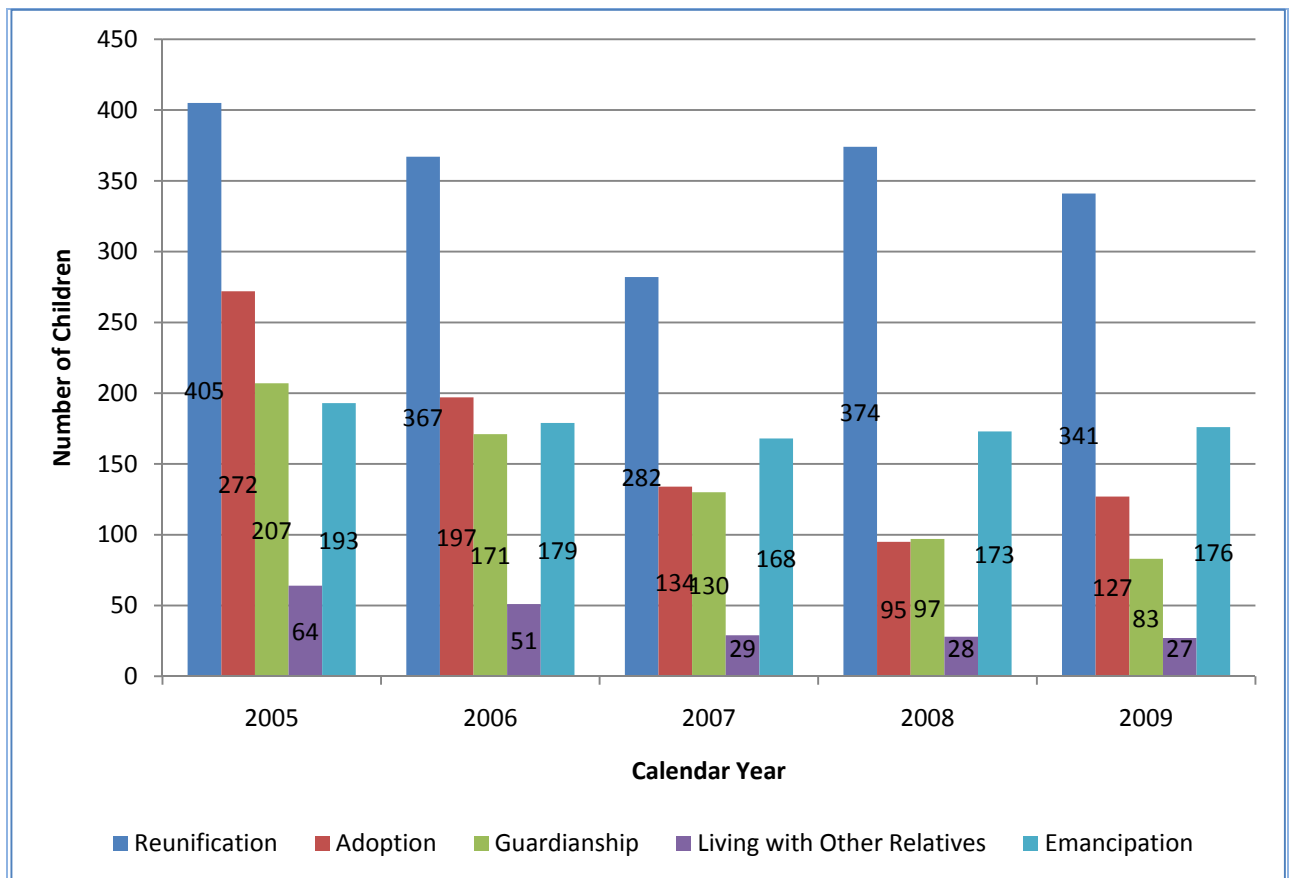
Source: CFSA Administrative Data

While the majority of children exiting foster care return home to their families, with 341 children exiting to reunification in calendar year 2009, the large number of children who annually exit foster care to emancipation (meaning leaving foster care without a permanent home) has remained virtually unchanged since 2005 and the number of children exiting care to adoption and guardianship has significantly declined (see Figure 2).

As seen in Figure 2 below, there was an increase in adoptions from calendar year 2008 to calendar year 2009 (from 95 adoptions in 2008 to 128 adoptions in 2009) and 176 children exited to emancipation in 2009. The total number of finalized adoptions is still far below 2005 and 2006 performance and in 2009 accounts for only 28% of the children in foster care with a goal of adoption and only 11% of the children in foster care with a goal of adoption or alternative planned permanent living arrangement (APPLA) which often leads to emancipation. (See Figure 2). Even when you look at the combined totals of exits to adoption and guardianship, the performance remains unacceptably low.

Additionally, the vast majority of the children who were adopted or exited to guardianship in calendar year 2009 were under the age of twelve (167 or 80%). This means that far too many youth over the age of twelve in the District's custody remain in care until they are 18 to 21 years old when they emancipate, often, as you will hear from the youth, without the necessary connections to family or financial supports.

Figure 2: Exits from Foster Care by Calendar Year and Type



Source: CFSA Administrative Data

The welcome increase in finalized adoptions in calendar year 2009 came in part in response to increasing public concern that we raised in our monitoring role, that Children's Rights, Inc. (the *LaShawn* plaintiffs) raised in their legal filings and that advocates throughout the city emphasized, as evidenced by the article in the Washington Post on July 20, 2009, *D.C. Adoptions Drop Sharply, Causing Dismay*.⁶ This public concern led to an intensified effort by CFSA leadership and the Family Court to complete adoptions for children whose adoptions had previously been stalled due to outstanding issues such as subsidy negotiation, hearing scheduling and paperwork finalization. The fact that this joint work was able to produce results is good news. A continued close working partnership between CFSA and the Family Court is essential to ensure that the modest 2009 gains are sustained and improved upon this year and in the future.

⁶ Cauvin, H. (2009, July 20). D.C. Adoptions Drop Sharply, Causing Dismay: City Agency is Not Doing Enough For Foster Children, Critics Say. *The Washington Post*, pp. B1, B6.

Barriers and Recommendations

Lack of a Shared Vision about the Importance and Urgency of Permanency for Children's Success

Current practice in the District of Columbia does not reflect a shared understanding or commitment among the various parties working with children in foster care (including CFSA, the Family Court and the city-wide community of attorneys appointed as Guardians ad litem) to shorten timeframes to achieve permanency for children and youth. Without a shared commitment to the same goal, CFSA, the Family Court and all other stakeholders have trouble consistently working together to help children find permanent lifelong connections as soon as it is determined that they cannot be safely reunited with their birth families. Additionally, without greater clarity about the need to make decisions fairly, openly and with a sense of urgency, CFSA and its partners have not created shared benchmarks by which to measure progress to permanency and to hold themselves mutually accountable.

- Recommendation: CFSA and the Family Court need to develop and act on a shared agreement and operational protocols for CFSA staff, contracted private agency staff, Family Court judges, and guardian ad litem regarding the process and timeframes for achieving permanency. Part of doing this will require that CFSA actively recruit study and approve permanent families for the approximately 400 children currently in the system with a goal of adoption and an unknown number of the children who currently have a permanency goal of Another Planned Permanent Living Arrangement (APPLA) who also should be given an opportunity for permanency. We know from experience in other states that there are families willing and able to adopt older children and those with significant needs.

Additionally, CFSA and the Family Court must agree on and regularly track not only the process measures such as timely filing of termination of parental rights petitions but also adherence to timeframes to schedule and resolve those petitions and then to timely process and finalize adoption and guardianship agreements. CFSA should also institute a child-specific review process involving both social workers and Office of the Attorney General lawyers to make the system accountable for results for every child – meaning achieving permanency for children through reunification, guardianship or adoption within agreed upon timeframes.

The Lack of a Consistent Permanency Practice Model and Policy

Under the leadership of three different CFSA Directors since 2006, many initiatives and special projects regarding how to work with children and families to achieve permanency have been instituted, but none of the initiatives have been followed through to consistent implementation and completion. As a result, permanency practice at CFSA has been unstable. At this point, despite efforts to understand, I am not fully certain where the responsibility, particularly with the private agencies who case manage over half of the children's cases in the District, lies for ensuring that case planning and decision-making moves children to permanency.

With the inconsistency of permanency practice at CFSA, the Agency has not finalized or issued policy which aligns and clarifies the various components of current permanency practice. To our knowledge, there continues to be ambiguity in the roles of permanency specialists and specialized adoptions workers and since 2004, the Agency has been operating without a

finalized adoption policy which clearly articulates the ways in which social workers should practice and will be accountable with regard to ensuring permanency through adoption.

- Recommendation: CFSA should clearly articulate its organizational structure and protocols for its own workers and with the private agencies with regard to permanency practice. This will require clearly defining the roles and responsibilities of all staff involved with a child and family and fully implementing the myriad of programs in place to find children permanent connections. CFSA must engage all relevant members of a child's team to concurrently plan from the moment a child comes to the attention of the Agency to ensure that every child achieves a positive permanency outcome within expected timeframes.
- Recommendation: CFSA should issue policy to align its adoptions and guardianship structure and practice with the rest of the Agency's work. These policies must include:
 - mandating that all young people leave foster care with a family connection or discharged to a relative or a committed, caring adult;
 - providing subsidized legal guardianship and kinship care as viable options for permanency;
 - providing older youth with options for re-engaging birth parents or relatives who are safe resources;
 - providing a variety of living arrangements as options for young people 18-21, including remaining with foster parents, kinship/guardianship placements, and independent living, and allowing young people to return to foster care or a supervised living setting at any time up to age 21;
 - requiring that young people lead the development of their case planning, including permanency planning and transition planning that addresses education and employment goals, and is finalized during the 90 day period immediately prior to leaving care;
 - streamlining the way in which families who want to be permanent resources for children and youth are recruited, studied, approved and supported; and
 - tracking permanency outcomes by race and ethnicity and implementing plans to reduce the racial disparities in outcomes.
- Recommendation: CFSA should implement and sustain an effective permanency practice model. CFSA has launched a number of nationally recognized programs to help improve permanency practice including its current work with Adoptions Together and its work on Family Finding. Unfortunately, none of these programs have been provided with the full and continuous support needed to successfully implement and sustain them. Both the Family Finding and Permanency Teaming programs have been shown to increase permanency options for children and youth and more quickly move them to positive permanency outcomes. CFSA and child welfare systems nationwide should be encouraged to fully implement these programs and maintain fidelity to their models.
- Recommendation: The District of Columbia, to include CFSA, the Family Court and other partner agencies should set explicit outcome standards and consistently track progress towards them and widely share the data with the public. In order to be more transparent, explicit benchmarks and outcomes must be set and shared with the public

regularly. This can be done by publishing performance data to the CFSA and Family Court websites on a quarterly or semi-annual basis.

Financing and Funding Problems

Fostering Connections requires states to change their laws in order to be eligible for the increased opportunities the Act provides. This is only the first step. Once a state is eligible to draw down the funds they must do so accurately and expeditiously, as governed by federal regulations. If the states have internal capacity issues related to submitting accurate and timely claims for federal funding, they must fix the internal processes preventing them from drawing down the funds available.

In the District of Columbia, much work remains to take advantage of federal funding opportunities that extend beyond changing their own law. In April 2009, due to disallowances of previous claims, the District stopped claiming for Medicaid reimbursement and shifted a portion of the Medicaid claiming⁷ to the Foster Care federal grant.⁸ Almost a year later, the District is still in the process of hiring a consultant to help fix the problems with the goal of reinstituting Medicaid claiming (originally targeted to begin again by January 2010). This lapse in maximizing federal claims due to internal capacity problems has resulted in a potentially large funding shortfall.

- Recommendation: CFSA must immediately retain expert assistance to resolve their Medicaid and IVE claiming problems. In order to improve permanency practice and overall work with children and families, the District must be adequately funded. There are many experts in the field who have successfully worked with other jurisdictions to resolve capacity issues and increase claiming. These experts are able to pinpoint the issues and provide the analysis for how to move forward. CFSA should be encouraged to hire someone with expertise in working with federal funding programs and with negotiating with CMS to expeditiously resolve the issues and begin to submit for federal reimbursement.
- Recommendation: The District should pass legislation to extend adoption and guardianship subsidies to families until a child turns twenty-one. Fostering Connections promotes extension of guardianship payments to children until they turn 21 years old. There is legislation that has been introduced in the District of Columbia Council by Councilman Wells which will extend adoption and guardianship subsidies until age 21 and in doing so provide the financial means and other supportive services that families considering adoption and guardianship require. The Mayor should support prompt passage and implementation of this legislative change.

⁷ This was related to Targeted Case Management and Rehabilitative Services.

⁸ Title IV-E.

Additional Recommendations

Fostering Connections has provided an important foundation for improving outcomes for children in the child welfare system but a number of key areas were left unaddressed. Most importantly the current federal accountability structure needs to be strengthened. Currently the data collected by the federal government is insufficient to track outcomes for children over time and the performance review process does not allow for comparisons across and between states. As a result, it becomes difficult for jurisdictions to determine if the progress they are making is consistent with national trends or not.

- Recommendation: The Adoption and Foster Care Analysis and Reporting System (AFCARS) needs to be constructed to measure longitudinal performance.

Conclusion

In the past decade, the District of Columbia has moved, sometimes with fits and starts and often without institutionalizing previous gains made, toward establishing a well functioning child welfare system which can provide for children's safety and assist children and families in achieving permanency and lifelong connections. While there has been real progress in some areas, progress on achieving permanent families for children and youth has not been sufficient. There remains much to do and it must be done now so that another decade does not go by with hundreds of children growing up in foster care, forced to leave the system at age 18 or 21 without the lifelong support of a loving family.