



Update on Improving Foster Care Placement in Oklahoma

ABSTRACT

When it comes to working with abused children, attorneys can play an important role in navigating the courts and the DHS system of care to improve or ensure the best possible outcome for their clients. This paper examines data specifically for children represented by Tulsa Lawyers for Children and provides recommendations and guidance for advocacy based on the examination of this data.



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INTRODUCTION

Oklahoma continues to struggle with providing consistency in placement for children in foster care. The state now ranks 42nd in child wellbeing and leads the nation in child abuse deaths.¹ Oklahoma children are injured more frequently in DHS custody than children in other states. There continue to be too few quality foster homes, too few social workers, and too few mental health providers to address this crisis.

Tulsa Lawyers for Children, (TLC) provides legal representation to abused and neglected children when the office of the public defender must withdraw due to a conflict relating to criminal charges against the parent or guardian. Conflicts among siblings may also result in a referral to TLC. In 2018, TLC was funded by the Oklahoma Bar Foundation to identify improvements in the foster care system. A study was conducted examining the legal status of all abused children represented by TLC in 2017. The first white paper examined 482 cases. Less than half of the cases had closed by the end of the first year of the study. Although the first year's data provided a great deal of information, it was insufficient to make conclusions. A second year funded by the Oklahoma Bar Foundation and the DeKraai Family Fund allowed TLC to ascertain permanency for the remaining children. Phase II of the

study validated the Phase I findings and identified systemic patterns and areas in which TLC lawyers can more aggressively advocate for their clients.

Focus Questions:

- 1. How can reunification efforts be improved?*
- 2. Does locations of foster care placement impact reunification?*
- 3. What can be done to decrease the number of foster care placements and minimize time in foster care?*
- 4. How can this information be used to facilitate positive change in the child welfare system in Oklahoma?*

TULSA LAWYERS FOR CHILDREN DATA

Phase I of the study examined certain data relating to the 482 children served by TLC attorneys from January 1, 2017 until December 31, 2017.

Phase II of the study examined the legal status of the 58% of children involved in the study whose cases were still open at the close of Phase I of the study.

In 2018, 360 children's cases were closed. This constituted 75% of the children tracked for the study. For a review of the first year's data, see

<https://www.tulsalawyersforchildren.org/wp-content/uploads/2019/03/White-Paper-Improving-Foster-Care-Placement-in-Oklahoma.pdf>

The data collected from this second group of closed cases included:

- Demographics (age, race, gender)
- The number and type of placements each child experienced while in DHS custody
- The distance of each placement from Tulsa County
- The amount of time from the filing of the petition to adjudication
- The amount of time a child was in DHS custody before a case closed
- The reasons for case closure
- The conditions the parents were required to correct in order to be reunified with their children

Single mothers in this study had a 1 in 5 chance of reunification. Less than half of closed cases end in reunification.

FIRST YEAR DATA SUMMARIZED

There were several compelling findings in Phase I of the study. It was determined 47% of the closures resulted due to adoption. Reunification with the parents occurred for only 32.5% of the children. A single mother had only a 19.7% chance of reunification with her child and a single father had only a 5% chance of reunification. Nationally, the reunification rate for children in foster care is 49%.⁴

Conditions leading to adjudication of the children as deprived were documented in each case. Reunification of TLC clients with their parents most commonly occurred when the conditions of abuse were neglect, domestic violence, exposure to drugs/alcohol and the failure to maintain a safe, stable and/or sanitary home.

The study also hypothesized the further away a child was placed from their parents, the longer the time to case closure and the less likely reunification. The first year of data was viewed as inconclusive in answering this question since only 203 of the 482 cases were closed.

KEY FINDINGS IN YEAR 2



REUNIFICATION

The reunification rate with parents is lower than the national average once a child is placed in the custody of the Oklahoma Department of Human Services.

Parental rights were terminated for 55.4% of mothers and 64.7% of the fathers. Nationally, 51% of children taken into foster care have their parental rights terminated.⁴ In this study, single mothers had only a 21.8% chance of reunification. The second-year data supported the preliminary findings from the first year regarding the conditions parents corrected in order to be reunited with their children – neglect, domestic violence, exposure to drugs/alcohol and failure to maintain a safe, stable and/or sanitary home.



TIME IN CARE

The average time from petition to case closure was 26 months. This is higher than the national average, which is 20 months.⁴

African American children experience more time in custody from the time parental rights are terminated until adoption.

The longest time a child spent in custody was 12.3 years. Increased time in care puts a child at a higher risk for poorer outcomes and multiple foster care placements.¹⁰ The average number of placements for a TLC client was 3.34, which is similar to the national average. The highest number of placements for a child in this study was 75.



DISTANCE

The distance of a child's placement from natural parents did not affect case closure result.

Transportation is not usually discussed in foster care research, but some researchers hypothesized placing a child far away from their biological parents would be a barrier to reunification of a family due to difficulties in arranging visitation. This data did not show distance to be a factor in reunification.

Data from other studies reflect increased usage of emergency room services when a child experiences multiple placements.²¹ One reason for this usage could be a lack of a primary care provider or distance to the primary care provider.

VISUAL DATA

Phase II of the study examined the remaining 279 open cases to determine if permanency had been achieved and if so, how. A total of 360 of the original cohort of 482 cases were closed by the conclusion of the study. The overall findings showed no statistical difference between Phase I and Phase II.

Demographics

Age

- Average = 7.33 years
- Range = 0-18 years

Gender

- Male 49%
- Female 51%

Race

- African American: 33.6%
- Asian: 0.4%
- Native American: 16.2%
- Caucasian: 49.8%

Ethnicity

- Hispanic: 12%
- Non-Hispanic: 88%

Native American

- 26%

Reason for Referral to TLC

- Criminal conflict with the Office of the Public Defender: 68.5%
- Sibling Conflict as to Outcome: 21.6%

TLC Foster Care Data

Number of Placements:

Average number is 3.34
 Lowest: 1
 Highest: 75

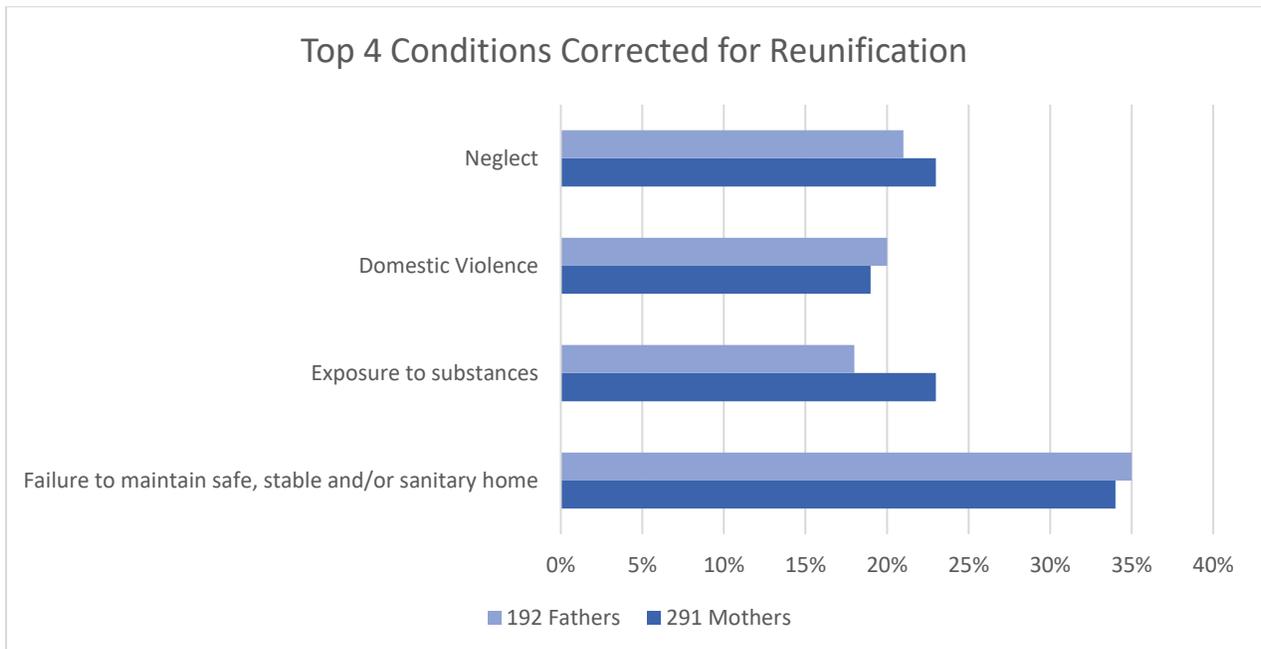
Reunification

21.8% Reunified with Mother
 5.8% Reunified with Father
 4.7% Reunified with both Parents

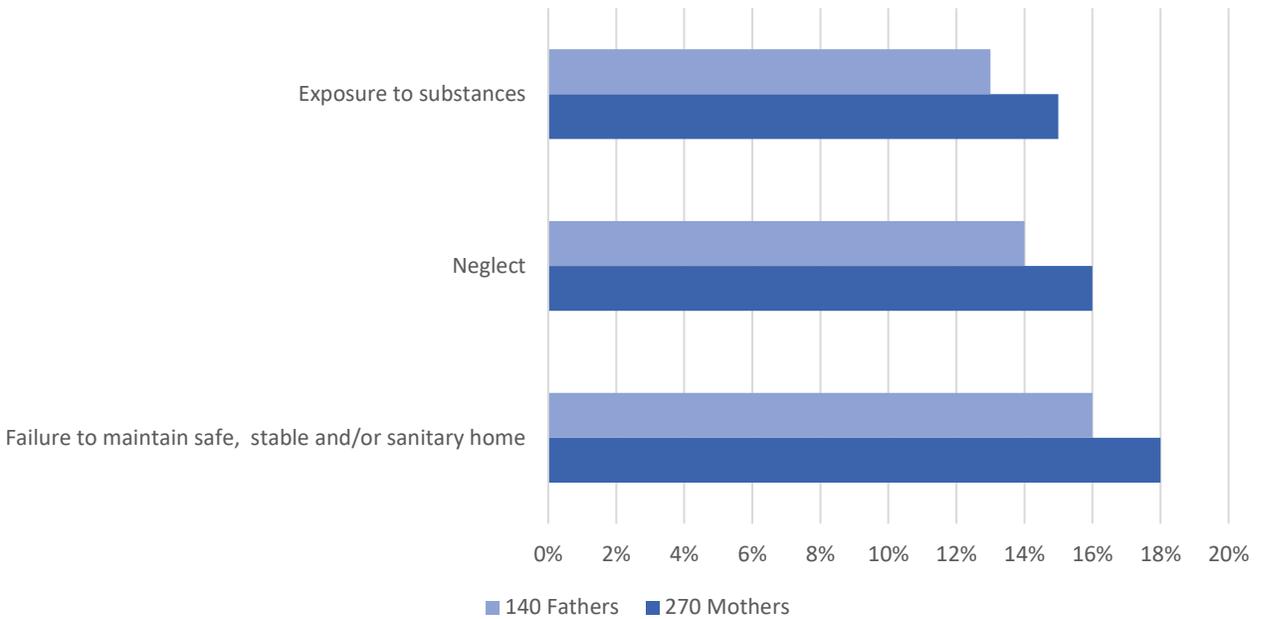
Reasons for Case Closure

- Aged Out: 4.7%
- Guardianship: 8.3%
- Reunification: 32.3%
- Adoption: 48%
- Dismissed: 2.5%

Parental rights were terminated for 55.4% of mothers and 64.7% of the fathers in the updated sample of 482 cases.



Top 3 Conditions Resulting in Subsequent Adoption



TIME BETWEEN PETITION FILE DATE AND REUNIFICATION (117 Cases)

- Average Number of Days: 648.74
- Minimum Number of Days: 0
- Maximum Number of Days: 4,492

TIME FROM PETITION FILE DATE TO CASE CLOSURE (360 Cases)

- Average Number of Days: 799.61
- Minimum Number of Days: 0
- Maximum Number of Days: 4,492

TIME BETWEEN PARENTAL RIGHTS BEING TERMINATED AND ADOPTION (147 Cases)

- Average Number of Days for Mother: 521.68*
- Average Number of Days for Father: 630.99
- Maximum Number of Days for Mother: 2,496*
- Maximum Number of Days for Father: 3,837

*The time between parental rights being terminated and adoption of children of African American mothers was significantly longer compared to children of Caucasian mothers. The average number of days was 638 with the maximum number of days to termination being 2,496.

Time to adoption/reunification compared with distance from Tulsa County DHS

All of the children represented by TLC were in Tulsa County when taken into custody. Children in custody may be placed in various foster homes, mental health facilities, hospitals or shelters around Oklahoma. Statistics for adoption and reunification were compared for children living less than 30 miles from Tulsa County to children living more than 30 miles from Tulsa County. Distance had no impact on a child's being reunited with their parent.

Adoptions

30% occur within the first placement
21% occur within the second placement
30% occur after the third placement

Reunifications

33% occur within the first placement
30% occur within the second placement
23% occur after the third placement

There can be no keener revelation of a society's soul than the way in which it treats its children.

-Nelson Mandela

HOW CAN PERMANENCY BE ACHIEVED SOONER?

Reunification is often the primary goal for children in foster care; however, instead of reunification, the most common reason for case closure in the TLC sample was adoption. Single mothers had a 1 in 5 chance of reunification with their children.

Pro bono attorneys providing advice and counsel to abused and neglected children can help their clients achieve permanency sooner by following the recommendations below:

1. **Meet with your client monthly.**

Attorneys should be a constant presence in their client's life. Consistency and routine help to establish expectations and trust. Regular meetings can also help determine a client's expressed interests. In cases where a child is pre-verbal or unable to express an interest, having a relationship with the client assists the attorney ascertaining the client's best interest. The sooner the attorney knows the client's position, the sooner the attorney should focus on achieving the desired outcome, especially if it is reunification with the parent.

2. Understand the client’s and the parents’ Individualized Service Plan (ISP).

Each child in foster care has an ISP, as do the parents. The purpose of the parent’s ISP is to identify what needs to be done to correct the conditions which led to the child being removed from the home and placed in the custody of the Oklahoma Department of Human Services. Once the conditions are corrected, then the child can be returned to the home.

The child client ISP may include specific recommendations to ensure medical, mental health and educational needs are addressed while in DHS custody. Failure to address the issues may have a detrimental impact on reunification.

It is important for the parent and child to have the resources needed to follow through with the ISP in order for reunification to occur successfully. TLC attorneys should review and monitor how quickly parents are able to enroll in ISP ordered services. Wait lists for parents to enroll or receive specific services can have deleterious consequences on the bond between parent and child, especially with younger children. The failure to enroll in parenting classes or attend therapy in a timely fashion may prolong or prevent DHS from conducting the necessary safety assessments required before a child can begin trial reunification with the parent.

3. Work to prevent foster care disruption.

A secure relationship between child and caregiver is one of the most powerful predictors of social emotional development.^{16,17,18} While a child is in foster care, the foster family will become the child’s primary care provider. This relationship can be a corrective and a healing experience for the child. If a secure attachment can be built with the foster parent, the child is more likely to have future secure attachment relationships.⁸ Foster parents can also serve as a very important bridge for the child and the biological parents. Bridging relationships between the foster parents and the child’s parents should be encouraged to promote successful reunification.

Does foster care placement impact reunification?

It was hypothesized children residing in foster homes, shelters or mental health facilities outside of Tulsa had a lower likelihood of reunification with a parent. However, the data did not indicate a significant difference in reunification of children placed in care less than 30 miles or more than 30 miles from Tulsa. A literature search was done to identify similar studies, but none were found.

This study focused on distance as a hypothetical impact to reunification. There are other factors which may impact reunification, such as kinship vs non-kinship placement. Children in kinship foster care have been shown to have more positive behavioral development, mental health, and

placement stability than children in non-kinship foster care. Alternatively, children in non-kinship foster care may achieve permanency sooner through adoption.^{5, 6}

The TLC lawyer should make note of the quality of the placement and what efforts are being made by the foster parents to bridge with the child's parents. It is important to ascertain how the child is doing in the home. Does the child seem to be making a connection with the foster parents? How is the child doing behaviorally? How is the child doing in school? Is the child receiving the evaluations and services that he or she needs? If the foster home does not appear to be a good fit for the child, it is incumbent upon the TLC attorney to advocate for other arrangements. Requesting a staffing with DHS or filing a motion for re-disposition are appropriate actions to take.

What can be done to decrease the number of foster care placements and minimize time in foster care?

In 1959, the seminal work "Children in Need of Parents" by Maas and Engler was published. The authors emphasized the importance of permanency for children, rather than long term foster care.¹¹ Children in foster care for longer than 18 months, were more likely to stay in foster care long term. Subsequent studies have affirmed these findings.¹⁰ The nationally recommended time frame to achieve permanency for an abused child removed from the home is less than 18 months.¹⁰ The data from the TLC population reflects permanency takes on average of 26 months to achieve.

There are a series of legal steps TLC attorneys can take in order to achieve permanency quicker for their clients:

1. Concurrent Planning

TLC attorneys should request the Court make a finding of concurrent planning much earlier in the case. Doing so requires DHS to explore other options to achieve permanency while continuing to work with the parent on correcting conditions. Providing the court a secondary plan for the child is a requirement of the Adoption and Safe Families Act of 1997.

2. Assessment of Child Safety

If the parent(s) is/are employed and have a home, and the TLC client has expressed a desire to return to the parent(s), TLC attorneys should ask DHS to conduct an "Assessment of Child Safety" to determine if it is safe for a child to be reunited prior to the completion of the court ordered treatment plan. The child's attorney may also consider filing a "Motion for Re-disposition" if there is no threat of harm, or if it would be less harmful for a child to be with the natural parent than remain in foster care and be subjected to numerous moves in and out of shelters around the state.

3. Motions to Terminate Parental Rights

Alternatively, attorneys for the children should consider filing a “Motion to Terminate Parental Rights” rather than wait for the State to initiate the action. TLC staff will assist with the filing and serving of the Motions.

4. Five-day Notice of Removal

Objecting to the failure to receive the required five-day notice of removal is critical for TLC attorneys. Failure of the Department of Human Services to provide the statutorily required five-day notice prior to moving a child from one placement to another prohibits TLC attorney from advocating for a child’s expressed/best interests. Enforcement of the notice allows TLC attorneys to contact their clients and file objections, if necessary and/or appropriate.

5. Safety Planning

Many times, children are moved from one placement to another because of behavioral problems. The more placements a child experiences, the more likely they are to struggle academically, and experience social and emotional difficulties.^{13,14,15} It is important to know a child’s behavior has meaning and is often a symptom of trauma. TLC attorneys should encourage a detailed safety plan be prepared by a mental health expert for each client they represent. The safety plan may better prepare the foster parents in dealing with the client’s trauma and result in fewer placement disruptions.

Can the TLC data be used to facilitate positive change?

Nelson Mandela said, “Education is the most powerful weapon which you can use to change the world.” TLC attorneys are encouraged to review the data from this study and educate themselves on trauma and child maltreatment issues in order to more aggressively and zealously advocate for the client’s needs. All volunteer TLC attorneys are also encouraged to attend the six-hour course on Title 10A, the Oklahoma Children’s Code. The findings of this study are the basis for the 2020 training curriculum.

Examples of how the data and its analysis can be used:

1. Knowing there is only a one in five chance a child may be reunited with his or her mother, the TLC attorney with input from their clients may explore other options for permanency sooner.
2. The TLC data heralds the necessity to aggressively argue for permanency sooner to reduce the number of placements a child will experience and reduce the amount of time in custody of the State.
3. Since 68% of the children referred to TLC are referred due to a criminal conflict of interest with the Office of the Public Defender, TLC should establish a liaison with the Office of the District Attorney and the Public Defender to track criminal outcomes. Juvenile Court proceedings should not be deferred pending the resolution of a criminal matter.



4. Data indicating the amount of time a child may spend in custody will help identify attorneys who have not only the commitment but the time to represent abused children.

ACES AND PACES: INFORMATION EVERYONE SHOULD KNOW

What a person is exposed to in the first year of life sets the stage for future social emotional, physical and cognitive development. These experiences can be building blocks or roadblocks to forming healthy relationships and can impact future success. Trauma changes the structure of the brain.¹⁹ Children who suffer from abuse or neglect are strengthening the part of the brain that fosters mistrust and fear. Abused children are at an extremely high risk of poor mental health, social emotional delays, developmental delays and medical problems.

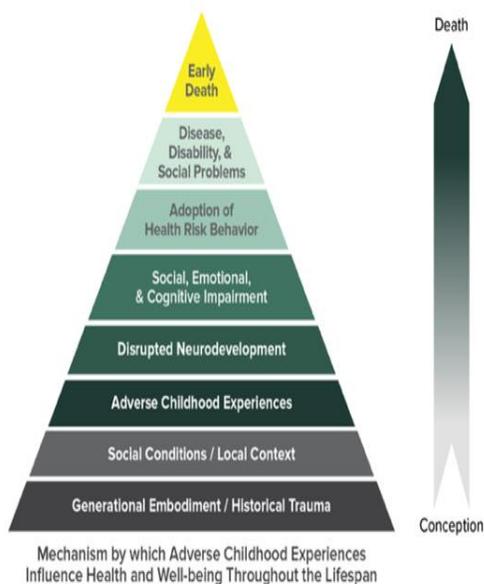


Figure 1

The Adverse Childhood Experiences Study (ACEs) is a groundbreaking study documenting the impact of trauma and violence. The study found the more adverse experiences people suffer before they are 18, the more likely that they are to engage in risky health behaviors, suffer chronic medical conditions, have lower life potential and die earlier. (Figure 1).¹ There are ten main experiences in the three categories of abuse, neglect and household dysfunction which are considered adverse childhood experiences (ACEs).

However, the negative impact of ACEs can be mitigated by protective and compensatory factors which strengthen a person's resiliency. Grudo and Morris

identified ten protective and compensatory factors that have been shown to increase resilience. These factors fall into two main categories; relationships and resources.⁹ (Figure 2) It important to understand the effects of trauma and resilience factors

when representing families who are in the foster care system. The knowledge of ACEs and PACEs can help in the development of treatment plans for the parent and abused child.

PACES



Relationships

- Knowing someone who loves you unconditionally.
- Having a best friend
- Helping others or vounteering in the community.
- Participating in organized sports.
- Actively involved with a civic group or a non-sport social group.



Resources

- Have an engaging hobby.
- Have an adult (not a parent) you can trust and count on when you need help or advice.
- Home is typically clean AND safe with enough food to eat.
- School provides the resources and academic experiences needed to learn.
- In the home, rules are clear and fairly administered.

Figure 2

*It is easier to build strong children
than to repair broken men.*

Frederick Douglass

CONCLUSION

TLC clients spend six months longer in foster care than the national average and are more likely to achieve permanency through adoption. Change is needed and TLC attorneys must zealously advocate on behalf of their clients to achieve permanency sooner.

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