

NATIONAL JUDICIAL LEADERSHIP SUMMIT IV ON CHILD WELFARE

September 24–25, 2019 | Minneapolis, MN



Summit Principles

Courts play a critical role in ensuring that kids can live safely with their family. Research has conclusively established that separating children from their parents inflicts trauma on the child that has life-long consequences. One expert described the impact as “catastrophic,” while another opined, “[c]ontinuing [parent-child] separation removes the most important protection a child can possibly have to prevent long-term damage.” A third noted, “[i]f people paid attention at all to the science, they would never do this.”

Certainly some children must enter foster care for their safety. But over the past decade, the number of children being separated from their families has steadily increased, while the number of children in foster care returning home to their parents has decreased. While in care, the rate of children living in congregate care facilities has remained stagnant, and close to half of those children in congregate care placements have no documented clinical or behavioral need that would warrant such a restrictive and non-family placement. Today, the system terminates the rights of more parents than a decade ago, leaving more children awaiting permanent homes. And despite significant investments in spending, new laws and regulations, and other interventions, the number of maltreated children has not gone down. These trends require us to explore how we can create a child welfare system that can partner with and support families so that foster care is only utilized when absolutely necessary.

This Summit is intended to mobilize the legal and judicial community and other child welfare partners around a new national vision for ensuring the well-being of children with their families. Below you will find a draft of key principles to guide the creation of this vision. We urge you to use these principles to guide your work in your respective jurisdictions. We also urge other national partners and organizations to use these principles as a guiding vision going forward.

A. Courts create a culture that values all families.

1. Courts must ensure that government intervention in the lives of families, when necessary, demonstrates equal treatment regardless of race, ethnicity, religion, cultural heritage, country of origin, sexual orientation, and socioeconomic status.
2. Courts must ensure that important relationships between children and their families are preserved, including a kin-first culture so that when children cannot remain safely with their parents and must enter foster care, child welfare policy and practice prioritizes placement with relatives or close family friends.
3. Courts must ensure the voices of children and families in the child welfare system are heard, through including children and youth in court and in important decisions about their lives,

incorporating principles of procedural justice, and supporting court processes designed to capture the voice of families.

4. Courts must ensure that child welfare agencies make reasonable efforts (and active efforts in ICWA cases) to prevent removal, reunify families, and achieve permanency for children.

B. Courts ensure that children and families involved with child welfare experience a legal system in which they have meaningful access to justice and their rights are protected.

1. Courts must determine children's safety and best interests in the context of each parent's fundamental liberty interest in the care, custody, and control of their children, as well as the child's well-being interest in growing up in their parents' care, and the trauma of removal.
2. Early legal advocacy and representation is a vital component to protecting rights and maintaining family stability.
3. Appellate courts safeguard constitutional and statutory rights in child welfare cases, and state and tribal court leaders should work together to build and strengthen the capacity of trial and appellate law practice in their jurisdiction.

C. Courts lead efforts to strengthen communities and collaborative systems to help families.

1. Judicial system leadership is critical to building capacity to strengthen families and prevent entry into foster care.
2. Courts have an important role in identifying families in crisis in case types other than dependency, including housing, employment, child support, delinquency, probate, domestic relations, and criminal.
3. Courts have the ability to identify and connect families to supports including service providers, peer supports, and civil legal aid.
4. Courts have the ability to identify service needs, that if available and provided in communities, can help reduce family vulnerability and the need for foster care.
5. Courts must ensure that foster children are only treated in non-family group placements when clinically necessary, and through judicial leadership and collaboration courts should work to increase the capacity of their communities to provide community-based treatment options.

