

# Can Foster Care Interventions Diminish Justice System Inequality?

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*Youngmin Yi and Christopher Wildeman*

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## Summary

Children who experience foster care, write Youngmin Yi and Christopher Wildeman, are considerably more likely than others to have contact with the criminal justice system, both during childhood and as adults. And because children of color disproportionately experience foster care, improvements to the foster care system could reduce racial/ethnic justice system inequality. Yet the link between foster care and justice system inequality hasn't received the attention it deserves. This article represents the most comprehensive review to date on how foster care placement can affect children's risk of criminal justice contact.

Yi and Wildeman review how children come to the attention of Child Protective Services (CPS), how they come to be placed in foster care, and the risks that children in foster care face. They also examine how the child welfare and criminal justice systems intersect, with special attention to the large racial/ethnic disparities in both CPS contact and foster care placement and experiences.

The authors then examine strategies that might reduce inequality in criminal justice outcomes at two stages—during foster care placement, and after children age out of the system (that is, after they reach the age when they're no longer eligible to stay in foster care or receive attendant services). They highlight promising interventions that target five critical objectives: the promotion of stability and permanency in foster care placements; expanded and improved access to substance use treatment and mental health care services; provision of legal support for foster youth; extension of employment and educational support for late adolescents and young adults; and supports for securing housing and health care for youth who age out of foster care.

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Child maltreatment—encompassing physical, sexual, and emotional abuse, as well as neglect—is common, unequally distributed, and has lifelong negative consequences, making it one of the most pressing problems society faces.<sup>1</sup> The state, therefore, has practical and ethical obligations to prevent it. The most extreme state intervention involves removing children from their parents' homes and placing them in foster care. Considerable research, much of which we review below, shows that foster care placement is common, that it's disproportionately experienced by minority children, and that children who are touched by the system have a higher risk of contact with the criminal justice system.<sup>2</sup> Because of these characteristics, the foster care system has the potential to profoundly affect justice system inequality.

On the one hand, if foster care placement does increase the risk of criminal justice contact, as some research suggests, then it might exacerbate justice system inequality.<sup>3</sup> Yet even if it had no effect on the risk of criminal justice contact, the foster care system could do harm by maintaining existing levels of inequality. If improvements to the foster care system could reduce that risk, however, then foster care could decrease justice system inequality—perhaps profoundly so—by diminishing criminal justice contact among a high-risk and disproportionately African American group of children. But as other reviews on foster care have noted, scholars who study inequality have yet to fully explore the interaction between the foster care and criminal justice systems, the implications of this linkage for criminal justice inequality, or the linkage's potential to diminish inequality in justice system contact.<sup>4</sup>

This article is the most comprehensive review to date on how foster care placement can affect children's risk of criminal justice contact. We examine the link between foster care and criminal justice and, more broadly, we explore how foster care placement affects children in a range of areas as they transition to adulthood. We focus on two sets of strategies: first, during placement, and second, after children *age out* of the system—that is, after they reach the age when they're no longer eligible to stay in foster care or receive attendant services. The first set of strategies is intended to diminish criminal justice system contact among children who are currently in foster care, using existing and potential resources within the infrastructure of the child welfare system. The second targets young people on the cusp of aging out of foster care, with emphasis on increasing the age at which children must leave the system.

Before proceeding, it's important to note that neither of these stages precedes removal from the home. Although we also need strategies to reduce maltreatment in the home and to support the safe preservation of families after it occurs, they fall outside the scope of this article.

## Why Reducing Justice System Inequality Is Important

Criminal justice contact is ubiquitous. One recent study estimates that up to 40.3 percent of young adults have been arrested for something more serious than a traffic offense.<sup>5</sup> It is also, to a high degree, unequally distributed. Disparities are especially large in terms of imprisonment. One in five African American men but only about one in 33 white men experience imprisonment by their early 30s.<sup>6</sup> Criminal

justice contact is so pervasive for African Americans that scholars have begun to consider arrest, incarceration, and other justice involvement as de facto stages of the transition to adulthood for African American youth.<sup>7</sup>

These inequalities are all the more troubling because the consequences of criminal justice contact extend beyond the apprehended individuals themselves. Criminal justice contact shapes the wellbeing of families and neighborhoods as well as the lived realities of entire demographic groups.<sup>8</sup> Studies based on in-depth interviews and systematic observation of individuals and communities tied to jail and prison inmates, including the groundbreaking work of legal scholar Donald Braman and sociologist Megan Comfort, shed light on how incarceration affects those on the outside. Braman and Comfort found that when someone receives a sentence, that person's romantic partner and children "do time" as well. They have to restructure and reallocate their time, resources, and emotional energy to maintain relationships with and support their imprisoned loved one.<sup>9</sup>

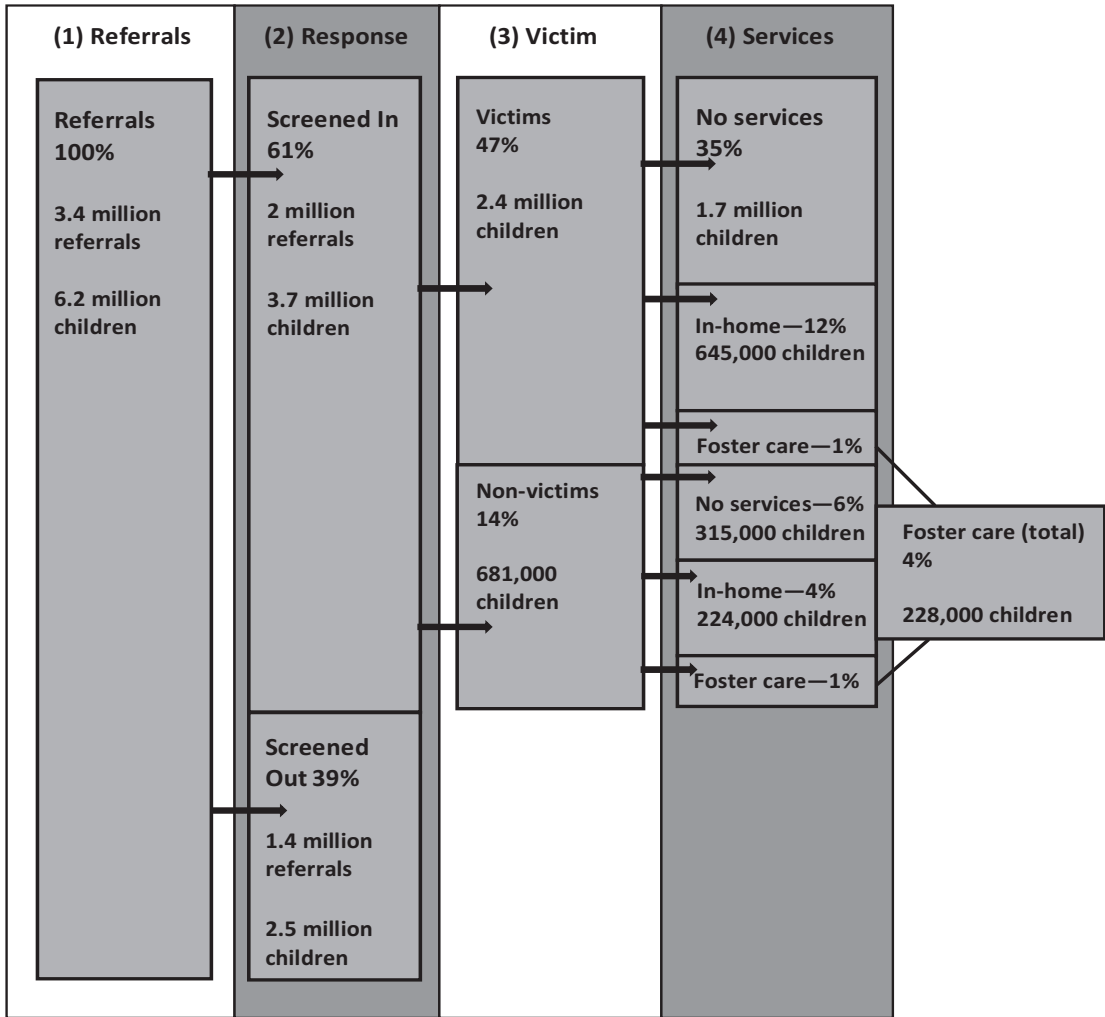
The consequences also extend across time within individuals, affecting their physical and mental health, social relationships, and economic security both immediately following release from a correctional facility and over the life course.<sup>10</sup> Consequences extend across generations as well, to caregivers, parents, and progeny.<sup>11</sup> For example, research on the effects of parental incarceration has found that the children of incarcerated people are at higher risk of mortality, poor educational and behavioral outcomes, homelessness, and their own criminal justice contact in adulthood.<sup>12</sup>

## **How Child Welfare and Criminal Justice Intersect**

Research on the prevalence, unequal distribution, and consequences of foster care placement aligns strongly with what we know about the criminal justice system. Children in foster care are far more likely than other children to belong to racial/ethnic minority groups and to be poor. Because race, ethnicity, and poverty are strong predictors of justice system involvement, their demographics alone (not to mention the many other risk factors they've been exposed to) would make children in foster care especially vulnerable to future criminal justice contact.<sup>13</sup>

Studies that follow foster youth over time find that they are more likely than others to experience incarceration and that incarcerated adults are disproportionately likely to have been in foster care, suggesting a foster care-to-prison pipeline. Analysis of the 2004 Survey of Inmates in State and Federal Correctional Facilities indicates that nationally, 7 percent of prisoners reported having ever been in foster care. This proportion more than doubles for young adults: 15 percent of prisoners aged 18 to 21 reported ever being in foster care.<sup>14</sup> The Midwest Evaluation of the Adult Functioning of Former Foster Youth (known as the Midwest Study)—the largest study of its kind, which examined a cohort of children from Illinois, Iowa, and Wisconsin as they aged out of foster care—found that more than half had been incarcerated by their mid-20s.<sup>15</sup> Other studies, using data from different locations and looking at different parts of the child welfare population, have also found dramatically high rates of criminal justice contact among current or former foster youth.<sup>16</sup>

**Figure 1.** Flow of Children through Child Protective Services



Source: Adapted from Christopher Wildeman and Jane Waldfogel, “Somebody’s Children or Nobody’s Children? How the Sociological Perspective Could Enliven Research on Foster Care,” *Annual Review of Sociology* 40 (2014): 604.

Notes: All victim determinations refer to unique victims, meaning that each child could be counted as a victim only once. Referrals, response, and service provision estimates all refer to duplicate children, meaning that children could be counted more than once. Because of this, percentages calculated for stages 3 and 4 of CPS contact only approximate the share of the population included in these categories and are not equivalent to the number of children in each category (for example, 2.4 million victims or 224,000 non-victims who receive in-home services), divided by the total of 6.2 million CPS-referred children.

Despite the overwhelming evidence that foster care placement is associated with poor outcomes, one positive possibility is rarely mentioned: that the foster care system could connect marginalized and severely disadvantaged children and their families with much-needed services and support. We don’t mean to imply that improving the foster

care system alone can solve the problem of mass incarceration and its spillover effects on society at large. However, given that children placed in foster care come from communities and families that are also disproportionately likely to be involved with the criminal justice system, successful interventions in the child welfare system could reduce criminal justice

inequality and minimize harm to children in foster care—or perhaps even vastly improve their lives.

## **A Brief Introduction to the Child Welfare System**

Figure 1 provides an overview of the flow of children through child protective services (CPS), using 2013 data. It highlights four stages: referral, response, determination of victim status, and provision of services. Here we should note three things. First, many children who experience maltreatment never enter the CPS system, even though they should be referred. Second, stringent criteria must be met to confirm child maltreatment, but errors occur. For example, some children who are deemed to have experienced abuse or neglect have not—or they have, but not the type of maltreatment that CPS confirmed or not at the time indicated. Finally, some children who enter foster care have never experienced maltreatment but have either been abandoned by their parents (whether intentionally, or unwillingly through an event such as parental incarceration or deportation) or been deemed at imminent risk of harm.<sup>17</sup> In short, though the overlap between maltreatment experience and CPS contact is strong, it is imperfect.

In 2013, CPS agencies received 3.4 million referrals for 6.2 million children. As figure 1 notes, children can be referred more than once, so we shouldn't consider the ratio of these two figures to reflect the probability that a given child in the population is referred to CPS. Still, these figures suggest that about 5 percent of American children receive a referral each year. Of these cases, roughly 40 percent are “screened out,” meaning that the CPS agency doesn't find sufficient evidence to investigate and closes

the case. If a referral isn't screened out, a CPS caseworker investigates whether the reported maltreatment occurred. Roughly one-quarter of investigated cases lead to a confirmed maltreatment case, meaning that about 1 percent of all children have a confirmed maltreatment case in any year.

Among children whose maltreatment isn't confirmed, the majority (72 percent) receive no services; 26 percent receive services—such as family therapy, referrals for substance use treatment, and assistance in accessing social safety net programs—while remaining in the home. About 1 percent of children who are not confirmed victims will be placed in foster care, usually because a sibling in the same household has experienced egregious maltreatment. Even among children whose maltreatment is confirmed, only about one in seven is placed in foster care. Roughly half of confirmed maltreatment cases receive no services, and the remainder receive in-home services. Thus only a very small share of American children—about 250,000 in 2013, representing 0.3 percent of all children—enter foster care each year.

The rate of foster care entry exceeds the rate of exit, however, meaning that at any given time more than 250,000 children are in foster care. Between the mid-1980s and 2000, caseloads more than doubled, with 276,000 children in foster care in 1985 and 568,000 in 2000.<sup>18</sup> Two economists at the University of North Carolina at Greensboro, Christopher Swann and Michelle Sheran Sylvester, have found that much of this increase was driven by a rise in the number of incarcerated mothers and more stringent work requirements for access to cash welfare benefits. Particularly for single mothers, those two factors make provision of care and critical resources for dependent

**Table 1.** State Variation in Foster Care System Characteristics, Fiscal Year 2015

	<b>United States</b>	<b>Alaska</b>	<b>California</b>	<b>West Virginia</b>
<b>Number in Foster Care per 1,000</b>	5.8	14.2	6.1	13.1
<b>Total Number in Care</b>	427,606	2,653	55,893	4,959
<b>Child Race/Ethnicity</b>				
<i>White</i>	42.7%	27.7%	20.4%	87.0%
<i>Black</i>	28.4%	5.1%	21.8%	10.5%
<i>Hispanic</i>	21.3%	5.4%	52.8%	1.1%
<i>Asian/Pacific Islander</i>	1.4%	3.4%	2.4%	0.4%
<i>Native American</i>	4.1%	53.9%	2.1%	0.0%
<i>Other</i>	1.6%	4.9%	0.0%	0.5%
<b>Current Placement</b>				
<i>Pre-adoptive home</i>	3.6%	26.2%	2.4%	3.0%
<i>Kin care</i>	30.2%	23.9%	32.7%	19.9%
<i>Foster home (non-kin)</i>	45.4%	34.5%	48.0%	50.4%
<i>Institution</i>	13.3%	4.5%	11.7%	22.7%
<i>Runaway, independent living, trial home visit</i>	7.6%	11.0%	5.1%	4.0%
<b>% Awaiting Adoption</b>	26.0%	29.5%	25.3%	29.4%
<b>Months in Current Placement</b> (Standard deviation)				
<i>Median</i>	5.5	4.5	7.1	4.8
<i>Mean</i>	10.1	7.0	12.5	7.2
<b>Total Months in Foster Care</b>				
<i>Median</i>	14.2	12.9	15.6	9.9
<i>Mean</i>	22.6	18.4	25.4	14.3

Source: Authors' analysis of the 2015 Foster Care File of the Adoption and Foster Care Analysis and Reporting System.

Note: This table describes children who were in foster care at the end of the 2015 fiscal year.

children either more difficult or physically impossible.<sup>19</sup>

According to the most recent data available, 427,910 children were in foster care at the end of the 2015 fiscal year, indicating that caseloads fell modestly over the past decade and a half, though the last few years have seen an uptick that may be driven by the opioid epidemic.<sup>20</sup> As table 1 shows, 26 percent of these children are available for adoption, meaning parental rights have been terminated.<sup>21</sup>

Four percent of foster youth live in pre-adoptive homes (that is, with families that have filed to adopt them and are awaiting the completion of legal procedures); 30 percent are in foster care with family (commonly called kin care); 45 percent are in foster care with a non-family member; and 14 percent are living in an institution such as a group home. The remaining 8 percent live independently, have run away, or are on a trial home visit to see whether they can be reunited with their parents.<sup>22</sup>

So far, we've presented national CPS estimates. However, most policy and all programmatic action in CPS occur at the state and local levels, meaning that the characteristics of CPS systems vary. The populations they serve and the challenges they face vary tremendously as well. For example, responses and system practices may differ according to variation in foster children's characteristics or the prevalence of certain types of maltreatment across jurisdictions.

In table 1 we present statistics on foster care experiences in three states that represent a range of regions, populations, and policy contexts. In West Virginia, among children in foster care at the end of the 2015 fiscal year, the average cumulative time spent in care was about 10 months; in Alaska and California it was more than a year. In all three states, racial/ethnic minority groups are overrepresented in the foster population relative to their share of the general population. In California, for example, more than one in five children in foster care is black, although blacks make up only 5 percent of the state's population.<sup>23</sup> Similarly, in Alaska, indigenous youth make up 54 percent of those in foster care but only 17 percent of the population under 18.<sup>24</sup>

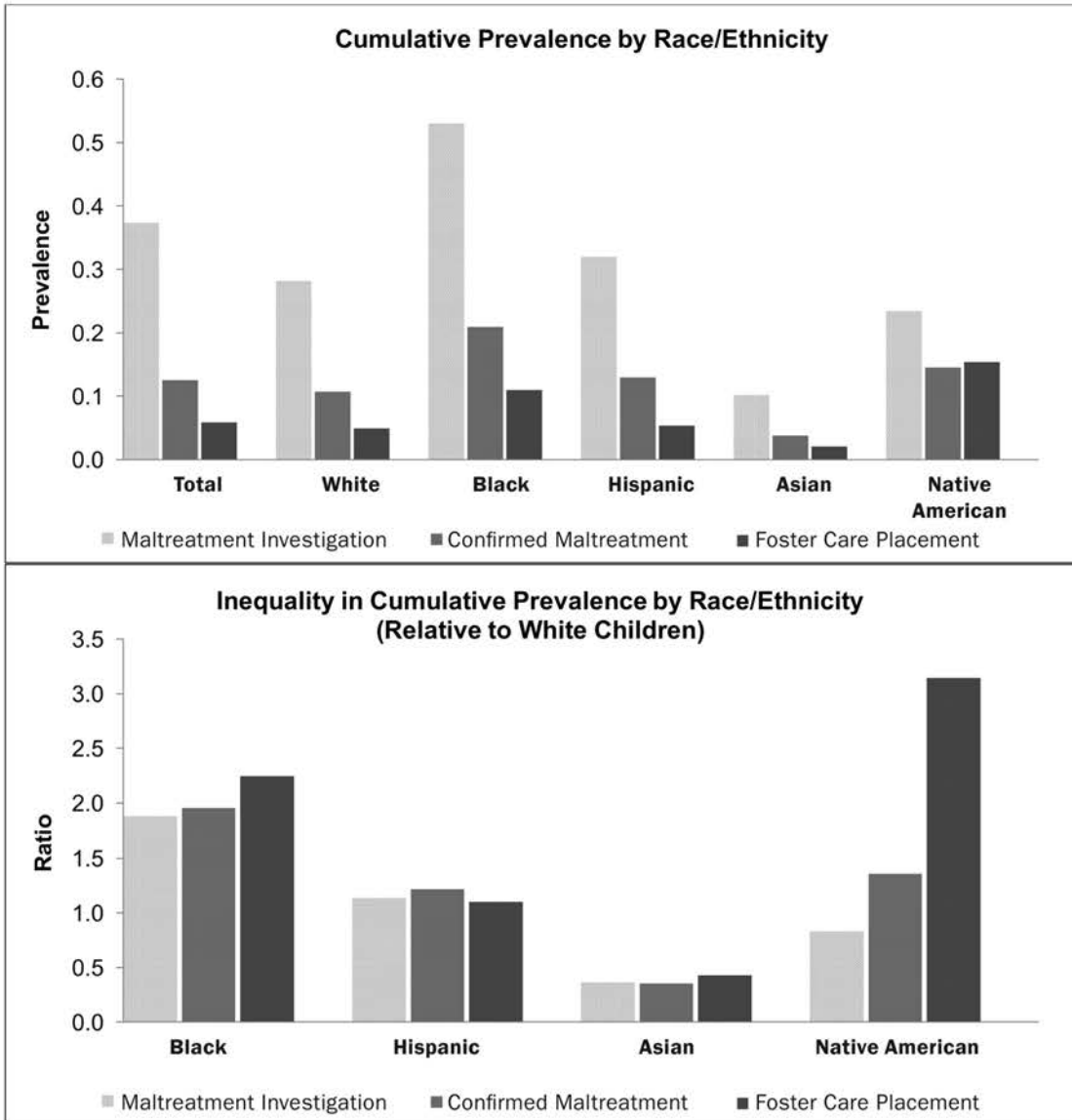
### **Disparities and Disproportionality in CPS Contact**

The racial and ethnic patterning of child welfare contact is reflected not only in the demographic characteristics of foster youth but also in the experience of foster care. Among children placed in foster care, we see large racial/ethnic disparities in the age at which they're first removed

from the home, the amount of time spent in care, the degree of contact they have with their biological parents, the stability of their placements, and the quality of their placements or the parenting abilities of their new caregivers.<sup>25</sup> In figure 2, we highlight racial/ethnic disparities in CPS contact by presenting published estimates of the cumulative risk of having a CPS investigation, having a confirmed maltreatment case, and being placed in foster care.<sup>26</sup> Figure 2 also includes inequality estimates for all racial/ethnic minority children relative to white children.

As figure 2 indicates, CPS investigation is prevalent among racial/ethnic minority children. A total of 53.2 percent of African American and 32.0 percent of Hispanic children have ever had an investigation, compared to 23.2 percent of white children. Minority children are also far more likely to experience confirmed maltreatment.<sup>27</sup> The cumulative prevalence of confirmed maltreatment is 10.7 percent for white children, 20.9 percent for black children, 13.0 percent for Hispanic children, and 14.5 percent for Native American children. (Asian/Pacific Islander children, on the other hand, have a lower risk than white children, at 3.8 percent.)<sup>28</sup> Foster care placement is also unequally distributed. The cumulative risk of ever being placed in care is 5.9 percent for all children. But black (11.0 percent) and Native American (15.4 percent) children have far higher risks than their white (4.9 percent), Hispanic (5.4 percent), and Asian (2.1 percent) peers. Gender differences in confirmed maltreatment and placement are minimal.<sup>29</sup>

**Figure 2. Racial/Ethnic Inequality in Cumulative Prevalence of Child Protective Services**



Sources: Estimates for maltreatment investigation are from Hyunil Kim et al., “Lifetime Prevalence of Investigating Child Maltreatment among U.S. Children,” *American Journal of Public Health* 107 (2017): 274–80; for confirmed maltreatment from Christopher Wildeman et al., “The Prevalence of Confirmed Maltreatment among US Children, 2004 to 2011,” *JAMA Pediatrics* 168 (2014): 706–13; and for foster care placement from Christopher Wildeman and Natalia Emanuel, “Cumulative Risks of Foster Care Placement by Age 18 for U.S. Children, 2000–2011,” *PLOS One* 9 (2014): e92785. Estimates of inequality in cumulative prevalence were calculated by the authors.

As figure 2 shows, Native American children are an especially intriguing group. They are less likely to have an investigation than whites, and slightly more likely to experience confirmed maltreatment, yet dramatically more likely to be placed in

foster care. Since the disparities in CPS contact among other groups differ little across stages of the process, this suggests that the effects of CPS contact for Native Americans may differ relative to those for the general population in important ways.



## **Consequences of Foster Care Placement**

Prior research provides little insight into the direct effects of foster care placement on children: the few studies that use methods designed to isolate the effect of foster care placement haven't reached a consensus regarding its impact on children.<sup>30</sup> Joseph Doyle, an economist from the Massachusetts Institute of Technology, has estimated that placement has large negative effects on several outcomes, including teen motherhood and adult arrest.<sup>31</sup> On the other hand, when University of Wisconsin researcher Lawrence M. Berger and his colleagues analyzed nationally representative data on CPS-involved children, they found that after accounting for characteristics that may shape children's risk of being placed in care, removal from the home isn't associated with child cognition and behavioral problems.<sup>32</sup>

Beyond the discrepant findings, these studies fail to capture the full diversity of child welfare systems and contexts. Doyle's data come from Cook County, IL, at a time when the state had astronomically high—and hence nonrepresentative—risks of foster care placement. The data used by Berger and his colleagues, though nationally representative, offer no insight into the variation in effects across states with very different risks of placement. It's also especially perplexing—given that child protection is at the core of the CPS mission—that no study we know of rigorously considers how foster care placement affects the risk of experiencing later maltreatment at the hands of caregivers.<sup>33</sup>

Nonetheless, it's clear that having been in foster care is associated with a wide range of negative outcomes and that some of

this association may be causal. Foster care placement is associated with an elevated risk of substance use and housing instability, lower levels of education and employment, greater likelihood of teen pregnancy and parenthood, and poorer mental health, to name just a few outcomes.<sup>34</sup> Because the purpose of foster care placement is to remove children from conditions that put them at risk of further harm, and, to some degree, turn them away from the trajectories established by maltreatment and poverty, identifying ways to diminish these poor outcomes is fundamental to the function of the CPS system. In the rest of this article, we discuss interventions at the two points we've identified—foster care placement and as youth age out of care—that could improve the child welfare system's capacity to break or weaken the tie between the foster care and criminal justice systems.

## **Promising Interventions for Youth in Foster Care**

In any year, 4 percent of the children who are referred to CPS end up in foster care following an investigation and, usually, confirmation of maltreatment (see figure 1). Their experiences vary tremendously with respect to placement type, stability, and length; frequency of contact with their parents or previous caregivers; and the types of supports and services received, among other factors (see table 1). These placement traits are associated with outcomes including substance use, juvenile justice system contact, adult arrest and incarceration, and the children's own likelihood of becoming perpetrators of domestic violence and child maltreatment.<sup>35</sup> In addition to these more structural aspects of foster care placement conditions, the quality of foster parenting is, of course, also highly variable. Public

pressure for reform often comes after the revelation of a high-profile and seemingly Dickensian case of youths' maltreatment at the hands of their foster caregivers.<sup>36</sup>

To reduce racial/ethnic inequality in child welfare experiences, and, ultimately, in future criminal justice contact, it's vital to improve placement settings. Racial/ethnic minority children are more likely to be removed from the home earlier in childhood, if ever, and also likely to spend more time in foster care, to age out of care, and to experience more volatility in placements, all of which puts them at higher risk of criminal justice contact.<sup>37</sup> Studies that attempt to disentangle the factors that shape child welfare disparities often point to the friction between racial/ethnic and cultural diversity in family structure (especially in the role of extended kin and non-kin) and the idealized structure more likely to characterize middle-class non-Hispanic white nuclear families.<sup>38</sup> This tension appears to be one factor that shapes decisions to place children in care. African American children who are removed from the home, in particular, are at much higher risk of having their parents' parental rights terminated and also of being placed in foster or group home care rather than with kin or in adoptive care.<sup>39</sup> Even among children in similar placement types, nonwhite children are substantially less likely to receive necessary services.<sup>40</sup>

A clear way, then, to reduce disparities in foster care that are associated with inequality in criminal justice contact would be to improve placement experiences and conditions for foster youth, particularly those who are African American. But two policy issues stand in the way. First, perspectives regarding whether and how

to prioritize certain types of care, such as non-kin adoption, differ dramatically. For example, Elizabeth Bartholet, a Harvard law professor, strongly advocates faster termination of parental rights to facilitate adoption; others, such as New York University family and children's rights law professor Martin Guggenheim, strongly advocate for family reunification as the preferred response.<sup>41</sup> Second, although some interventions—such as Multidimensional Treatment Foster Care (MTFC)—have been shown in small-group clinical evaluations to be effective in improving child outcomes, they require highly individualized treatment plans and a substantial increase in resources, which may limit the extent to which they can be replicated or scaled up.<sup>42</sup>

Rather than debating which type of placement is best or advocating for a national rollout of existing small-scale comprehensive programs, we home in on the thread that underpins these perspectives and interventions: the consensus that stability and quality of placement (and home life more broadly) are critically important for all children. We identify practices, programs, and resources that target specific features of foster placement and that have been assessed for their potential impact on criminal justice contact itself, or on intermediate outcomes strongly connected to criminal justice contact. In reviewing published analyses of children's foster care experiences, we find three promising types of interventions. One set of practices considers diverse family forms as part of a more comprehensive set of options for foster care placement; the second aims to better support and train foster parents; and the third aims to ensure foster youths' access to services that cover substance use/abuse and mental health.

## Comprehensive Assessment of Placement Options

As we've said above, children's foster care experiences vary in type, stability, and quality. Children in volatile situations fare worse both in the system and after leaving it.<sup>43</sup> Furthermore, certain settings are associated with worse outcomes than others: children placed in foster care with kin, for example, appear to fare better than those placed in other arrangements.<sup>44</sup> Because kin placements are often far less likely to be followed by additional placements, some of the benefits of kin care relative to other types of foster care may be driven simply by stability.<sup>45</sup> But kin placements aren't an option for all children in foster care. Family reunification, transition to adoption, and guardianship—a temporary or permanent arrangement by which children maintain legal ties to their parents but have a guardian who is assigned primary parental rights and responsibilities—can also give children stable and caring support systems following removal from the home. Practices that increase children's chances of integration into such arrangements could improve outcomes by giving them positive social control and resources—and, in the best of cases, permanent loving relationships in their own or foster families.

A wealth of evidence illustrates the benefits of kin-based care relative to other placement types and shows that existing social networks play a critical role in supporting children's wellbeing. Based on this evidence, we recommend more systematic implementation and expansion of *concurrent planning* strategies. Concurrent planning aims

to identify and evaluate all options for permanent placements, including nuclear and extended family members as well as non-relatives, as early as possible. This contrasts with the standard practice of assessing other placement settings only after eliminating the option of reunification with the child's family. Although most states technically have concurrent planning systems in place, a national evaluation suggests that inconsistent implementation across cases may render these systems ineffective—and, in fact, may exacerbate inequalities across placements that disproportionately disrupt the kin and existing social support networks of children from families of color and immigrant families.<sup>46</sup>

Where concurrent planning systems exist, some of the challenges we've mentioned could be mitigated by improving the extent to which agencies' practices accord with guidelines put forth by the Children's Bureau of the US Department of Health and Human Services in its periodic assessment of state child welfare agencies and standardization of procedures.<sup>47</sup> If concurrent planning isn't part of the protocol following referral, agencies should integrate it by requiring caseworkers to obtain information about the child's relatives—both those living in the home and those who live elsewhere—as well as non-relatives who play a significant role in the child's life. Collecting such comprehensive details about the child's support landscape could shorten the time required to evaluate potential permanency options. This approach could also help institutionalize a broader understanding of what constitutes a healthy and functional care and family system, thus improving cultural

competence and awareness in the CPS system.<sup>48</sup>

## Support for Caregivers

The second set of interventions we highlight expands caregiver training and support. In the short term, these interventions can improve the quality of placements by enhancing caregivers' capacity to care for foster youth. In the long term, better parenting skills and caregiver-child relationships will make placements more stable, increase the likelihood of transition to a permanent situation, and reduce the time it takes for children to get there.<sup>49</sup> Scandals involving children severely abused while in foster care paint a gruesome picture. Although these cases are exceptional, it is important to note generally that foster-involved youth are disproportionately disadvantaged and often face mental, physical, behavioral, cognitive, and emotional problems that make effective parenting especially challenging. Unstable foster placements, inadequate care provided to foster children, and even maltreatment may be traced in part to the lack of support for foster caregivers.

Agencies short on funding may not be able to afford comprehensive interventions like MTFC, which generally include caregiver training and supports. But standalone programs that counsel caregivers and train them in parenting and stress management are more affordable. Such programs, including the Attachment and Biobehavioral Catch-up (ABC) intervention and the Keeping Foster and Kin Parents Supported and Trained (KEEP) program, can improve the quality of foster family placements and put kin care and even safe family reunification back on the table for CPS-involved children.<sup>50</sup> Both

of these interventions have been evaluated experimentally at multiple sites; they've been found to be extremely effective at best and to have mixed or null results at worst. They're also broadly consistent with the sort of two-generation interventions that look extremely promising for families, and especially children, who face material disadvantage, trauma, and other adverse early life experiences (see *Future of Children's* Spring 2014 issue for more on two-generation programs).

To support young children who have behavioral and emotional problems associated with maltreatment, ABC helps foster parents create environments that improve the child's socioemotional development and capacity to engage in healthy relationships.<sup>51</sup> KEEP focuses on children older than five, using group discussion and practice to teach parenting strategies, especially for managing problem behaviors.<sup>52</sup> Both are examples of age-specific caregiver support programs that have been deemed effective in improving placement stability, and thus child outcomes, at least in the short term. If such interventions were made available equitably across social groups, they could help diminish inequality in children's foster care experiences and later criminal justice contact.

## Substance Use and Mental Health Treatment

Another area where foster children's experiences vary widely is their access to help with substance use and mental health, both of which are strongly tied to criminal justice contact. Although many studies focus on the negative impacts of foster care placement, as we've said, some youth do benefit from foster care. In the case of substance use and

mental health, the foster care system may be especially well positioned to effectively reduce children's risk of future criminal justice contact by giving them access to services and treatment.<sup>53</sup>

Unfortunately, many foster youth don't receive the mental health or substance use services they need. In particular, among foster youth with known mental health conditions and substance use problems, those who belong to racial/ethnic minority groups are the least likely to report having received treatment.<sup>54</sup> Yet the same groups have a relatively higher risk of foster care placement and greater prevalence of mental health and substance use problems—meaning that the disparities in access to services are probably a major factor behind the higher likelihood of criminal justice contact for these youth. In fact, given that untreated mental illness and addiction strongly increase the risk of criminal justice contact, it wouldn't be surprising if these disparities explained much of the inequality in and high rates of criminal justice contact among foster youth more generally. But research has yet to establish that a lack of treatment for addiction or mental illness definitively causes risk of criminal justice contact.<sup>55</sup>

To improve foster youth's access to treatment and care for substance use and mental health, we recommend two practices. First, eligibility conditions for federal funding and local agency oversight should incorporate a measure of whether services are effectively responding to children's needs. Investigators and caseworkers already conduct risk assessments for CPS-referred children to evaluate their needs. But while agencies do collect information on substance use and abuse and mental health, this information often isn't used later to systematically

evaluate whether children are receiving effective services. Measuring whether children's receipt of services aligns with their needs as they move through the system would help to hold caseworkers and agencies accountable.

Second, the same needs-response measure should be used to assess whether racial/ethnic disparities—specifically, in the share of mental health and substance use needs that are met—remain below a certain threshold. (Ideally, agencies would be required to meet the needs of children from all groups equally, but given the disproportionate racial/ethnic composition of foster youth, some disparity may be inevitable.) Similar needs-response measures are currently used for other foster services. For example, to claim federal funds for employment and education services rendered through the child welfare system, states must show for each case whether foster youth have either entered the labor force or are receiving education or vocational training.

Another way to improve outcomes for foster youth looks beyond the child welfare system to suggest increased cooperation between the criminal justice and foster care systems. Like all children and adolescents, some youth in foster care will engage in delinquent behaviors and/or come into contact with the juvenile justice system. Both delinquency and juvenile justice contact are strong predictors (and pathways) for later, more serious criminal justice contact. One way to keep foster youth's contact with law enforcement and the courts from escalating is to ensure that these young people have consistent, reliable, and equitable access to legal representation. Today, several states require that foster youth be provided with lawyers. But foster children who appear in juvenile courts are still less likely than

other young people to be offered probation or returned to their care settings; they're significantly more likely to be sent to juvenile detention centers.<sup>56</sup> Collaboration between the foster care and juvenile justice systems must be designed to overcome this "foster care penalty."

## **Promising Interventions for Youth Aging Out of Care**

Children who enter foster care as teenagers or turn 18 while in care begin the transition to adulthood on precarious footing. Compared to foster youth who exit the system before 18, those who age out fare worse on virtually all outcomes, including homelessness, unemployment, and incarceration in early adulthood.<sup>57</sup> The age pattern of criminality, as well as age-related policies and practices within the criminal justice system, make this already tumultuous life stage all the more fraught. A near-universal age-crime curve—that is, a peak in criminal activity during mid- to late-adolescence—is a widely known phenomenon.<sup>58</sup> Because of this peak, the age at which foster youth generally age out of care—18—is an especially difficult stage for abrupt emancipation. Legal policy also makes them vulnerable because 18 is the age at which people begin to be tried as adults by default, putting them at risk of incarceration and probation conditions that emphasize surveillance rather than rehabilitation.

Although young people are treated legally as adults when they turn 18, the actual transition to adulthood usually extends beyond that age. Many people rely on support from their families well into their mid-20s, in the form of childcare, housing, money to meet basic needs, and even leisure consumption.<sup>59</sup> Yet most states require foster

youth to become independent by 18. Studies of the transition to adulthood find that adolescents who receive support from their parents fare better and achieve more stable independence because they have a reliable safety net during this volatile stage.<sup>60</sup> It's not surprising, then, that children who have been removed from the home—and thus are significantly less likely to be prepared for the transition to adulthood—fare poorly when they're abruptly switched from state-sponsored care to independence, without the continued support that many of their peers receive.

## **Extending Foster Care beyond Age 18**

In the face of overwhelming evidence of the disadvantages of aging out of care, there's an obvious solution: extending foster care to allow young people aged 18 and above to access the full range of child protective services, with modifications for age-appropriate needs. Fortunately, federal law already provides a substantial basis for meeting the needs of foster youth at this age. Title IV-E of the Social Security Act, the Foster Care Independence Act of 1999, and the 2008 Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act) established federal sources of funding for independent living services, transition planning, and the extension of foster care to age 21 at the state level. Like much of our understanding of the effects of foster care, we don't definitively know that extended care can improve early adult outcomes. However, descriptive comparisons of children who participate in extended foster care versus those who do not suggest that programs that use Title IV-E funding can reduce the likelihood of negative outcomes in early adulthood.<sup>61</sup>

Today, about half of all states have extended foster care placement and service eligibility beyond age 18.<sup>62</sup> A first step toward improving the wellbeing of youth who age out of the system is to push for extending care beyond 18 in the remaining states. The 2008 legislation's provision of federal funding to expand foster care indicates that there is political will to effect this change.<sup>63</sup> For the rest of this discussion, however, we will make more modest recommendations, bearing in mind that some states may not extend care. Two types of intervention could be implemented whether or not care is extended. One is support for integrating foster youth into healthy social institutions, specifically the labor force and higher education. The other is support to ensure that the basic needs of current and former foster youth are met as they age out of care.

### **Integrating Youth into Healthy Social Institutions**

The transition to adulthood typically includes entry into such social institutions as new families, the labor market, and higher education. But compared to other young people, foster youth are less likely to have stable family relationships, more likely to drop out of high school and experience job insecurity or unemployment as adults, and less likely to pursue or complete college.<sup>64</sup> Unemployment, low educational attainment, and a lack of social control and support are strong predictors of both juvenile and adult criminal justice contact.<sup>65</sup> Similarly, research by sociologist Robert Sampson and criminologist John Laub (the editor of this issue of *Future of Children*) has found that marriage, work, and school enrollment—and the social bonds created by these experiences—can improve the trajectories of young people who demonstrated criminal

behavior earlier in life.<sup>66</sup> For young people aging out of foster care, support for integration into these social institutions and the cultivation of these kinds of attachments may be especially effective in disrupting the foster care-to-prison pipeline.

It's important to have services that prepare young adults for independent living while they're still in foster care. But for such investments to translate into real improvements in adult wellbeing, young people need continued access to age-appropriate services after aging out. States should take better advantage of available funding from the Fostering Connections Act and Title IV for programs to support the transition to higher education, practical training, and stable work.

Where it's not feasible to extend foster care or work and training services, there's a more modest alternative: to conduct case-by-case evaluations with current and former foster youth after their participation in programs designed to help them transition to adulthood. Studies drawing on detailed interviews with adolescents who used independent living training services find that the young people were often left feeling unsupported and unprepared to put their training to use due to a lack of follow-up from caseworkers and counselors.<sup>67</sup> Individualized contact with foster youth to assess their progress after participating in a program and to guide them toward alternative resources—including those outside the child welfare system—would provide more social support. In short, if foster care can't be extended, agencies could still use available resources more effectively to help foster youth who age out of care avoid entering

the justice system at the peak of the age-crime curve.

## Expanding Support for Housing and Health Insurance

Help with employment and education can give young people important ties to social institutions and networks that are integral for a successful transition to adulthood. But young adults can take full advantage of these resources and opportunities only if their basic needs are met. Unfortunately, many people aging out of care find that emancipation also means losing both stable housing and access to health care and services. Racial/ethnic minorities and the poor face these challenges disproportionately.<sup>68</sup>

Although many policies that can make a difference in the child welfare system operate at the state or local level, federal policy plays a key role when it comes to housing and health care. The transition plans mandated by the 2008 Fostering Connections Act require caseworkers to meet with foster youth who are three months away from aging out to prepare them for emancipation by establishing an independent living plan. Available federal resources that are often incorporated into the transition plans include time-delimited housing vouchers—set aside for youth who can demonstrate that they’re working to develop independent living skills—and eligibility for health insurance through the Medicaid program through age 26. Again, extending foster care beyond 18 would be ideal, as it would give young people full access to the foster care system’s services. But if that’s not feasible, maintaining their access to Medicaid and funds for housing can give young adults who age out of foster

care a chance to transition to adulthood on a more equal footing with others at the same stage.<sup>69</sup>

## Conclusions

High rates of criminal justice contact and inequality therein are now defining features of American society. They come with lifelong multidimensional and detrimental outcomes both for individuals and for their families and communities, and they disproportionately affect racial/ethnic minority groups and the poor. Unfortunately, that’s also true for another system that overlaps substantially with criminal justice: the child welfare system. Child welfare contact is now common among racial/ethnic minority children. About one in 10 African American children—twice the rate of white children—experiences foster care placement, the most serious level of contact with CPS.<sup>70</sup> Such marked inequality in the risk of foster care placement matters not only because it represents differences in actual child maltreatment, but also because children in foster care fare worse in many ways, including their rates of delinquency, criminal activity, and criminal justice contact.<sup>71</sup>

This article focuses on two periods in the lives of foster youth—during foster care and aging out—and highlights five promising interventions the child welfare system might adopt to reduce inequality in criminal justice contact: promoting stability and permanency in foster care placements; expanding and improving access to substance use treatment and mental health care services; providing legal support for foster youth; extending employment and educational support for late adolescents and young adults; and helping youth who age out get housing and health care.



Many aspects of the child welfare system could be modified to better meet the needs of youth placed in out-of-home care. But our review of developmental and criminological theory, published empirical analyses, and consideration of limitations to implementation led us to these recommendations. Regarding our recommendations that apply to children during foster care, we concluded that this particular set of interventions would most effectively maximize the child welfare system's capacity to help children access critical resources that can lessen some of the most prominent risk factors for criminal justice contact later in life. As for our recommendations that apply to young people aging out of care, it's interesting to note that the supports we highlight from our review of research evidence (employment, education, and housing) are the same areas in which many US young adults receive continued support from their families and communities.<sup>72</sup> These interventions, then, give foster youth the opportunity to take their first steps into adulthood with a level of stability and security much like that experienced by children never placed in care. Taken together these recommendations can provide a strong, balanced, though perhaps modest path forward.

The interventions we recommend could do more than increase the likelihood that foster youth can age into stable and healthy

social contexts and avoid contact with the criminal justice system. They also have the potential to diminish racial, ethnic, and socioeconomic inequalities in the criminal justice system—which, along with reducing child maltreatment, may be one of our most pressing societal goals. Children and adolescents in foster care are among the most disadvantaged individuals in our society and, as members of a population disproportionately composed of racial/ethnic minorities and the poor, they are at elevated risk for later criminal justice contact.

The ubiquity of criminal justice contact, the severity and persistence of its consequences, and its dramatically unequal distribution across racial/ethnic and socioeconomic groups all make reducing criminal justice inequality an imperative for the United States. If the landscape of criminal justice contact in this nation remains unchanged, we can foresee an unsustainable future characterized by fiscal strain; ineffective and often misguided strategies to reduce crime and violence; and, perhaps most seriously, entire cohorts and generations of low-income communities and communities of color condemned to lives of poverty on the margins of society. Policies and practices in the child welfare system that weaken the link between the criminal justice and foster care systems, such as those described in this article, will improve the life chances and criminal justice outcomes of some of our society's most vulnerable members.

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