



**BIG
IDEAS**

CHILDREN IN THE SOUTHWEST

2012



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY



ACKNOWLEDGEMENTS

Big Ideas: Children in the Southwest was made possible by the generous support and encouragement of the David and Lucile Packard Foundation, who also contributed a paper to the compilation. In addition, First Focus would like to thank Atlantic Philanthropies, the Annie E. Casey Foundation, the Foundation for Child Development, an anonymous funder, and the W.K. Kellogg Foundation for their support.

The views expressed in this publication do not necessarily reflect those of First Focus or the organizations whose contributions have made this book possible. We have published this series of papers in an effort to facilitate a robust debate regarding policy solutions to improve the well-being of our nation's children. We wish to thank the authors who have contributed to this publication, for their ideas, innovative thinking, and commitment to children.

ABOUT FIRST FOCUS

First Focus is a bipartisan advocacy organization dedicated to making children and families a priority in federal policy and budget decisions.

First Focus takes a unique approach to advocacy, engaging both traditional and non-traditional partners in a broad range of efforts to increase investments in programs that address the needs of our nation's children. In all our work, we interact directly with policymakers and seek to raise awareness regarding public policies that affect children and families. Our goal is to ensure that these programs have the resources necessary to help our children develop in a healthy and nurturing environment.

For more information about First Focus, or to make a donation, please visit www.FirstFocus.net or call 202.657.0670. Questions, comments, or suggestions can be emailed to info@firstfocus.net.

PUBLISHING NOTE

Published in 2012 by First Focus

First Focus
1110 Vermont Ave. NW
Suite 900
Washington, DC 20005

Printed in the United States of America by First Focus





Table of Contents

Introduction

- Our Choice: Building Bridges or Fences for the Next Generation 7
by Bruce Lesley, President, First Focus

Demography

- The Children Of The Southwest: Demographic and Socioeconomic Characteristics Impacting the Future of the Southwest and the United States 11
by Steve H. Murdock, Hobby Center for the Study of Texas and the Department of Sociology, Rice University, Michael Cline, Hobby Center for the Study of Texas, Rice University, and Mary Zey, Department of Applied Demography and Organizational Studies, University of Texas at San Antonio

Education

- Using A Birth To Third Grade Framework To Promote Grade-Level Reading: Promising Practices in Improving Academic Achievement among California’s English Language Learners 31
by Jessica Mindnich, Ph.D., Derya Arac, Elizabeth Cavagnaro, Melina Sanchez, Giannina Perez, Marguerite Ries, Samantha Tran, Brad Strong, and Louella Ilog, Children Now
- Back On Track Through College In The Rio Grande Valley: From Dropout Recovery to Postsecondary Success 44
by Lili Allen, Jobs for the Future

Family Economics & Housing

- Children, Southwestern States, and the Federalism Problem 54
by Thomas L. Gais, Rockefeller Institute of Government
- Big Idea: Stop Taxing the Poor 66
by Rourke L. O’Brien, doctoral candidate, Sociology and Social Policy, Princeton University, and Katherine S. Newman, Zanvyl Krieger School of Arts & Sciences, John Hopkins University
- Commissioning Youth: Addressing Housing and Child Well-being in the Colonias Region 73
by Moises Loza, Executive Director, Housing Assistance Council and Stefani Cox, Research Assistant, Housing Assistance Council





Child Welfare, Rights, & Safety

- A Dream Of Youthful Hopes: Securing the American Dream
for the Children of Immigrants. 84
by Mark Leonard Shurtleff, Utah Attorney General
- Families on the Front Lines: How Immigration Advocates Can Build
a Bridge Between the Immigration & Child Welfare Systems 98
by Lindsay Marshall, Executive Director, The Florence Project
- Protecting the Future of Tribal Communities: Ensuring Compliance
with the Indian Child Welfare Act 106
by Thalia González, J.D., Assistant Professor of Politics
Occidental College
- A True Texas Miracle: Achieving Juvenile Justice Reform
in a Tough Economic Climate 121
by Deborah Fowler, Deputy Director, Texas Appleseed

Health

- Prospects for Continued Progress on Children’s Health
Insurance in the Seven Southwestern States:
The Perceptions of State-based Advocates. 134
by Eugene Lewit and Pilar Mendoza, David and Lucile Packard Foundation, with
Karen Crompton, Voices for Utah Children; Anne Dunkelberg, the Center for Public
Policy Priorities; Kelly Hardy, Children Now; Matt Jewett, Children’s Action Alliance;
and Bill Jordan, New Mexico Voices for Children
- Community Health Workers, Promotores, and Parent Mentors:
Innovative, Community-based Approaches to Improving the
Health and Healthcare of Children 154
by Glenn Flores, MD, Director, Division of General Pediatrics, Professor of
Pediatrics, Clinical Sciences, and Public Health, The Judith and Charles Ginsburg
Chair in Pediatrics, Division of General Pediatrics, Department of Pediatrics, UT
Southwestern Medical Center and Children’s Medical Center, Dallas, TX
- Children’s Oral Health in New Mexico: Lessons
from the Southwest 163
by Joanne M. Ray, D.O., F.A.A.P.





FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

OUR CHOICE:
Building Bridges or Fences
for the Next Generation

by

Bruce Lesley

President of First Focus

The Southwest has long represented the rich diversity of the United States, with families in the region dating back for centuries. Having been raised in El Paso, Texas, a high-growth city located at the mid-point of the 2,000 mile U.S.-Mexico border, I grew up thinking of the border as a place of great opportunity, enchantment, and grandeur, and yet, also a place of grinding poverty and inequality.

Former Census Bureau Director Steve Murdock, who authored the opening paper for this series, reveals that kids in the Southwest region (defined here as the seven states of California, Arizona, New Mexico, Texas, Nevada, Utah, and Colorado) accounted for:

- More than one-fourth of America's child population in 2010;
- More than 90 percent of the 2000-2010 increase in America's child population;
- More than half of America's Hispanic child population;
- Nearly one-third of American Indian and Alaskan Native children in the United States; and
- More than 40 percent of America's Asian child population.

As such, it is a place that holds the key for much of our nation's future. We can do right by our children and take advantage of the region's opportunity, enchantment, and grandeur, or we can fail them. It is our choice as to whether we make the proper investments and decisions about our collective future.

To do right by our children in the Southwest and around the country, we need to tackle the problems facing them with a proactive set of solutions that will allow them to reach their full potential. While the problems have been rehashed for decades in the Southwest, as report after report repeats data about bi-national poverty, public health challenges, and issues relating to immigration, what is often missing are the solutions necessary to move the region forward, particularly for children.

For example, when I lived in El Paso and worked for the County, we heard repeatedly that El Paso had a higher tuberculosis rate than that of other states. What was desperately missing was a game plan and policy agenda to address the problem.

Similarly, when I worked for Senator Jeff Bingaman (NM), it was shocking to discover that a high-ranking federal official did not support coming together on a bipartisan policy agenda to improve the lives and conditions for people along the border due to some underlying racist perceptions. The federal official had adopted a position to purposely thwart progress for children and their families along the border out of fear that it might inspire increased immigration.

Fighting ignorance and prejudice is hard enough but sometimes the obstacle is just apathy or paralysis, as far too many children live in dire conditions without so much as a word by many policymakers. As an example, if you look at poverty rates, the seven Southwestern states have the following overall and adult poverty rates versus those for children:

	Individual Poverty Rate (all ages)	Adult Poverty Rate (>=18 y.o.)	Child Poverty Rate (<18 y.o.)
Arizona	17.4	15.0	24.4
California	15.8	13.7	22.0
Colorado	13.4	12.1	17.4
Nevada	14.9	12.6	22.0
New Mexico	20.4	17.2	30.0
Texas	17.9	14.9	25.7
Utah	13.2	12.0	15.7

So where, you might ask, is the hue and cry for immediate action to address this crisis? Between the presidential election and the contested House and Senate races across this country and throughout the Southwest region, is there a candidate calling to cut the nation's or state's child poverty rate or putting forth an agenda to do so?

Unfortunately, rather than progress and beyond silence, we know that some of the policy decisions that national and state leaders have enacted or are pursuing will clearly fail the next generation. As a result, in some cases, we are heading in the wrong direction. For example:

- Texas's cut of \$5.2 billion out of its education budget this year has caused massive teacher layoffs and cuts to all educational programs, including the elimination of all extracurricular activities in some Rio Grande Valley schools
- Texas, Nevada, New Mexico, and Arizona rank 1st, 3rd, 4th, and 5th in the percentage of uninsured children in this country (Florida is 2nd worst) and have, at times, established unnecessary barriers to coverage for their most vulnerable children
- Arizona has enacted anti-immigrant legislation, SB 1070, that has created a climate of fear and instability among immigrant families, and the Tucson School Board eliminated Mexican-American studies in their schools to comply with a state law imposed upon them

And it's not just state policymakers whose decisions harm kids. Consider these federal government actions:

- The U.S. Senate filibustered and blocked the enactment of the DREAM Act in 2010, which left well over 1 million immigrant children and youth, the majority who reside in the Southwest, in a state of limbo in this country
- Our nation's immigration laws consistently fail to consider the well-being of children and family unity, which has led to record-setting numbers of parents being deported, families torn apart, and children unnecessarily entering the child welfare system

- Proposed federal budget cuts and block grants to children’s programs serving disadvantaged children will disproportionately harm the region’s children, as children of the Southwest are the most rapid growing population in the country and have poverty levels above the national average.

If we are at all concerned about our nation’s future it is critically important that we do better by children in the Southwest, as they account for 90 percent of the nation’s growth in the child population between 2000 and 2010. And as our country continues to reflect the diversity of the Southwest, we will need to ensure that our policies are working to advance the success of every single child in America, regardless of race, class, or ethnicity.

Rather than more fences and barriers, what we need are solutions and “bridges.” As Luis Alberto Urrea, an author born in Tijuana, Mexico, and raised in San Diego, California, said in an interview with Bill Moyers, “. . .my task, I think, all my life as a writer has been to find that common ground, that communication zone where we can talk. . .”

“Bridges are better than fences,” Urrea adds. “The fence – the Mexican border is a physical metaphor for everything that separates human beings. And all you have to do is turn on any debate. . .and you’ll know that there are fences everywhere, on the right and left, white and black, gay and straight, male and female still, Christian, Muslim, Jew. The fence is everywhere. And any audience I speak to has border fences everywhere.”

It is with these challenges and opportunities in mind that First Focus chose to focus this edition of *Big Ideas* on the Southwest. Like previous *Big Ideas* publications, these papers highlight new and innovative initiatives to improve child well-being. This year’s book includes over a dozen papers from state and national policy experts, elected officials, researchers, and advocates who address the changing demographics and identify new policy solutions, successful programs, and bridges that aim to establish common-ground for addressing the challenges facing children in the Southwest. Throughout the series, authors make the case for a wide range of policy solutions that are inclusive, culturally relevant, and family-focused.

Many good things are happening in the Southwest for children, and the lessons are applicable to the rest of the country as well. Ultimately, what is needed is a sustained and forward-thinking agenda, like those proposed in this book, so we don’t move two steps forward and then two steps back. The choices we make now are fundamental to our future.

Lesley was raised in El Paso, Texas, worked for a public hospital on the U.S.-Mexico border, El Paso County government (County Judge Pat F. O’Rourke), the State of Texas (Texas Gov. Ann Richards and State Rep. Mary Polk), and for federal elected officials from the Southwest, including Sen. Jeff Bingaman (NM), Rep. Ronald Coleman (TX), and Rep. Diana DeGette (CO). In that capacity, he staffed the Congressional Border Caucus in the U.S. House of Representatives and wrote legislation that established the U.S.-Mexico Border Health Commission.

THE CHILDREN OF THE SOUTHWEST: Demographic and Socioeconomic Characteristics Impacting the Future of the Southwest and the United States

by

Steve H. Murdock

Hobby Center for the Study of Texas
and the Department of Sociology
Rice University

Michael Cline

Hobby Center for the Study of Texas
Rice University

Mary Zey

Department of Applied Demography
and Organizational Studies
University of Texas at San Antonio



Introduction

The children of the Southwest (defined here as consisting of persons less than 18 years of age living in the States of Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah) represent a critical component of the child population of the United States. In fact, the southwestern states have disproportionately contributed to both the growth in the total and child populations for more than 40 years. From 1970 to 2010, the southwestern states accounted for 43,652,311 of the nation's total population increase of 105,533,612 (41.4 percent) and while the total United States increased its total child population by only 6.5 percent (by 4,518,154) the southwestern states increased their child population by 61.4 percent (by 8,013,459) children. As of 2010 these states contained 26.3 percent of the total population of the United States in 2010 and were the states of residence for 21,070,194 (28.4 percent) of the children of the United States (see Table 1). Even more important the southwestern states are increasingly an important center of growth in the number of children, particularly minority children, in the United States. These states' combined increase of 1,726,793 children is equivalent to 91.5 percent of the nation's 1,887,655 increase from 2000 to 2010. This was a decade that witnessed slow growth for the population of the Nation as a whole (9.7 percent) and especially slow growth in its child population (2.6 percent). As is clearly shown below, demographically and socioeconomically no discussion of America's children could be complete without an examination of the growth and impact of the children of the Southwest.

In this work we describe the child population in the Southwest in terms of both its demographic and socioeconomic characteristics. We begin by discussing selected literature on America's children, particularly its minority children (which form a majority of the growth in the child population today). This literature examines the socioeconomic characteristics of the current generation of children including the human capital of the families with children. We then examine the demographic and socioeconomic characteristics of children of the Southwest. We end our discussion by discussing the challenges and the potential contributions to the regions' and Nation's long-term socioeconomic growth and development potential represented by the children of the Southwest.

Brief Synopsis of Important Literature

As the analysis below delineates in detail, the children of the United States and particularly the Southwest are rapidly changing demographically, economically and socially (see Murdock et al. 2010). Of these sources of change the demographic are among the most important, setting the basic characteristics of the population of children who will ultimately become the nation's future adult population (Murdock et al., 1995; 2003; Johnson and Lichter 2010). Although their progression to adulthood is inevitable, their growth in the human capital which they will need to become competitive is not. Their socioeconomic, educational, and health characteristics will play major roles in determining their likelihood of social and financial success and their physical and mental health conditions as adults.

The state of America's children is influenced by a number of closely interrelated factors. Economic conditions, educational achievement, children's health status together with such demographic characteristics as age and race/ethnicity work interactively to determine the life chances of children, in socioeconomic, educational and health terms. However, it is essential to recognize that many of these are concomitant factors and are not necessarily causally related

to one another. For example, minority status is found to be associated with lower incomes and higher rates of poverty, lower levels of educational attainment and increased incidence of obesity and shorter life expectancy (Duncan et. al, 2010) but that does not mean that being minority causes such conditions. Rather analyses suggest that being minority is related to or correlated with but does not cause lower incomes and higher rates of poverty and these in turn are related to reduced levels of educational attainment and a higher incidence of negative health outcomes. That is, they are an interrelated set of items which often form a complex of conditions impacting children's life chances (for a discussion of how such factors interact to affect children see Duncan et al., 2010).

Socioeconomic, Educational and Health Characteristics Associated with Minority Status

Income and Poverty Disparities

In 1997, during the height of economic prosperity in the United States, 13.4 million children (19.2% of all children) living in the United States were poor as measured by a comparison of total family income with a poverty threshold that varies by family size (see United States Census Bureau 2006).

There are a plethora of studies relating poverty (particularly income) and various outcomes. However all outcomes are not equal. We are particularly interested in the outcomes for children of their family's poverty. The study of children in poverty offers the ideal subjects for examining the effects of poverty on life outcomes since the poverty in which they find themselves has nothing to do with their own choices, abilities, or decisions. Thus the argument of reverse causation which is prevalent among those who wish to "blame the victim" is erroneous. Unfortunately such tendencies may be especially prevalent in the United States. Thus, in examining the issue of intergenerational wealth transfers Solon (2002) found that the United States had the lowest degree of income mobility across generations among the large number of countries studied.

Beginning at birth, low income and its covariates such as low maternal education and minority racial status lead to greater risks of low birth weight babies due to prematurity and intrauterine growth retardation (Cramer, 1995; Gortmaker, 1979; Starfield et al., 1991; Stockwell et al., 1995). High incidences of low birth weight among poor women partially, but not totally, accounts for the higher infant mortality among this group (Cramer, 1995; Gortmaker, 1979; Tresserras et al., 1992). When poor children survive the first year of life, they continue to face greater risk of childhood mortality through accidental death (Wise et al., 1985) and developmental risks as well (Wise and Meyers, 1988). Nutritional status is impaired by poverty. As a result they are likely to be shorter-and lighter-for-their ages than those who are not poor (Kornman and Miller 1997).

Poor children are more likely to have lower rates of school attendance (McGaughey et al., 1991) and suffer from acute illnesses (Starfield, 1991) and asthma (Ernst et al., 1995). Children from poor families tend to exhibit more behavioral problems, especially those in long-

Table 1: Population Change in the United States and Southwest Region, Population Change by Race/Ethnicity, 2000-2010, and Percent by Race/Ethnicity, 2000 and 2010

A. TOTAL POPULATION IN THE SOUTHWEST REGION

Region	Population		Change 2000-2010		Percent of Population	
	2000	2010	Numeric	Percent	2000	2010
NH White	37,248,002	38,087,648	839,646	2.3	53.1	46.8
Hispanic	21,028,355	28,436,720	7,408,365	35.2	30.0	35.0
NH Black	5,032,865	5,747,979	715,114	14.2	7.2	7.1
NH Am. Ind./AN	719,715	757,491	37,776	5.2	1.0	0.9
NH Asian	4,529,230	6,301,097	1,771,867	39.1	6.5	7.7
NH Other	1,647,666	2,013,410	365,744	22.2	2.3	2.5
Total	70,205,833	81,344,345	11,138,512	15.9	100.0	100.0

B. CHILDHOOD POPULATION IN THE SOUTHWEST REGION

Region	Population		Change 2000-2010		Percent of Population	
	2000	2010	Numeric	Percent	2000	2010
NH White	8,171,262	7,313,984	-857,278	-10.5	42.2	34.7
Hispanic	7,672,690	9,860,058	2,187,368	28.5	39.7	46.8
NH Black	1,535,539	1,523,988	-11,551	-0.8	7.9	7.2
NH Am. Ind./AN	240,895	213,205	-27,690	-11.5	1.2	1.0
NH Asian	1,069,187	1,322,105	252,918	23.7	5.5	6.3
NH Other	653,828	836,854	183,026	28.0	3.4	4.0
Total	19,343,401	21,070,194	1,726,793	8.9	100.0	100.0

C. TOTAL POPULATION IN THE UNITED STATES

Region	Population		Change 2000-2010		Percent of Population	
	2000	2010	Numeric	Percent	2000	2010
NH White	194,552,774	196,817,552	2,264,778	1.2	69.1	63.7
Hispanic	35,305,818	50,477,594	15,171,776	43.0	12.5	16.3
NH Black	33,947,837	37,685,848	3,738,011	11.0	12.1	12.2
NH Am. Ind./AN	2,068,883	2,247,098	178,215	8.6	0.7	0.7
NH Asian	10,123,169	14,465,124	4,341,955	42.9	3.6	4.7
NH Other	5,423,425	7,052,322	1,628,897	30.0	1.9	2.3
Total	281,421,906	308,745,538	27,323,632	9.7	100.0	100.0

D. CHILDHOOD POPULATION IN THE UNITED STATES

Region	Population		Change 2000-2010		Percent of Population	
	2000	2010	Numeric	Percent	2000	2010
NH White	44,027,087	39,716,562	-4,310,525	-9.8	60.9	53.5
Hispanic	12,342,259	17,130,891	4,788,632	38.8	17.1	23.1
NH Black	10,610,264	10,362,183	-248,081	-2.3	14.7	14.0
NH Am. Ind./AN	685,911	647,321	-38,590	-5.6	0.9	0.9
NH Asian	2,420,274	3,176,129	755,855	31.2	3.3	4.3
NH Other	2,208,017	3,148,381	940,364	42.6	3.1	4.2
Total	72,293,812	74,181,467	1,887,655	2.6	100.0	100.0

Source: U.S. Census 2000 and 2010, P.L. 94-171.

term poverty, than children not in poverty (Campbell, 1995; McLeod and Shanahan, 1993). Young children in poverty are more likely to exhibit aggression, tantrums, anxiety and moodiness and at older ages poor children are more likely to exhibit learning and attention disorders and dislike of learning and school.

Poverty is also related to cognitive development. For example, income has been found to be directly correlated with Peabody Individual Achievement Scores and the Peabody Picture Vocabulary Test scores (Chase-Lansdale et al., 1997; Duncan et al., 1994; Korenman et al., 1995). Furthermore analyses suggest that, between the ages of three and eight, relatively small increases in income have resulted in substantial changes in intellectual skills such as increases in verbal and math skills (Smith et al., 1997)

Education Disparities

Roughly one-half of African-Americans, Hispanics and American Indians graduate from high school, compared to three-fourths of non-Hispanic Whites (Swanson 2004). Only 76% of African Americans and 56% of Hispanic adults have basic English literacy, compared with 93% of non-Hispanic Whites (Kutner et al. 2007). In addition, poor and minority children are more likely to attend under-resourced schools in high poverty areas (Duncan et al., 2010).

Furthermore, the educational gap appears to occur even before formal education begins. Black and Hispanic children living in poverty lag behind Whites on standard measures of achievement (Carneiro and Heckman 2005; Brooks-Gunn, Klevanov, and Duncan 1996). Achievement gaps between African Americans and Hispanics relative to non-Hispanic Whites are “one standard deviation” apart (Brooks-Gunn et al. 1996). This preschool gap is largely explained by poverty and differences in home environments. Among schools with more than 75% minority students, 43% of their students are failing to make adequate yearly progress (AYP), compared with only 16% of students failing to make progress among schools with less than 25% minority students (see United States Department of Education 2008).

Educational disparities are also clearly affected by poor English language skills. However, most studies of the social and academic disadvantages of children before entering kindergarten do not adequately measure differentials in language skills. The reason for this omission is the difficulty in testing students with a poor understanding of English. For example, the 1998 U.S. Department of Education analysis of this dimensions in a “nationally representative longitudinal study of young children,” The Early Childhood Longitudinal Study, Kindergarten Cohort Analysis (ECLS-K), studied 1000 private and public school students at the point of entering kindergarten and reported their sample as random. However, although the sample was “random,” the authors also reported eliminating children whose understanding of English (the language of testing) was below an established score on a brief language screener, the Oral Language Development Scale (OLDS) (Lee and Burkam, 2002: 11). Of those whose native language was Spanish, 71% failed the OLDS screening while of those whose native language was other than Spanish or English, 29% failed the OLDS screening (1999, Table 5.1). Thus, the data reported for the sample of Hispanic and Asian children is highly selective of the population from which they were drawn because only those who demonstrated English skills sufficient to pass the OLDS were allowed to participate in the study (Lee and Burkam (2002, footnote 3).

Although the above noted study's participants may be seen as composed of selectively "high" OLDS Spanish and other non-English speaking children, it found that among all children with a low socioeconomic status, African American and Hispanic children's test scores were below the national average on key learning dimensions. (African Americans were .68 standard deviations below the mean in math and .56 standard deviations below the mean in reading, while Hispanics children were .71 standard deviations below the mean in math and .69 standard deviations below the mean in reading). Most studies have been unable to separate the intertwined effects of low socioeconomic status from low English speaking abilities on achievement outcomes, such as obtaining low grades and repeating grade levels (Lee and Burkam, 2002:20). Despite this, although not adequately evaluated, the data generally document that those students with limited English language skills are more likely to perform poorly in school.

Health Insurance and Disparities

The physical health results of poverty among minority populations are evident in a 1.7 times higher rate of low-birth-weight babies, 3.5 times higher levels of exposure to high levels of lead, and a 1.7 times higher rate of child mortality among minority compared to non-Hispanic White children (Duncan and Brooks-Gunn 1997).

Although academics have studied health and education separately, there is a recursive relationship between these two variables. Generally education has been treated as causal and disparities in education have been seen as leading to disparities in health. This causal relationship is generally through the mechanism of occupation status, income, residence in poor neighborhoods, and wealth (Backlund, Sorlie and Johnson 1999). The racial gaps in education and income are primary contributor to racial disparities in child mortality. Child poverty and lack of insurance explain many of the racial disparities in adult health with these effects being mediated through disparities in educational achievement (Jonson and Schoeni 2007). However, education also affects health independently of socioeconomic factors. Gaps in educational achievement represent key determinants of racial, ethnic and socioeconomic disparities in adult health (Cutler and Lleras-Munery, 2006). For example, less education is associated with earlier onsets of chronic diseases, disabilities and declining functional status.

Interrelationships among Race/Ethnicity and Poverty, Educational Attainment, and Health Status

Poverty has larger effects on poor children's academic achievement relative to non-poor children such that poor children are 2.0 times more likely to repeat a grade, are twice as likely to drop out of school, and 1.4 times more likely to have a learning disability. Other negative consequences include the fact that poor children are 6.8 times more likely to experience child abuse and neglect, 3.1 times more likely to give birth out of wedlock, and 2.2 times more likely to experience violent crimes, including death (Blau 1999, Duncan and Brooks-Gunn 1997).

Parental income and education strongly affect general child development, particularly among the poorest of children. Findings from a natural experiment (Dahl and Lockner 2005) using the earned income tax credit and those from experiments involving random assignment to welfare show that increases in family income promote child achievement in preschool years. Dahl and Lockner (2005) note that a \$3,000 increase in family income in early and middle childhood boosts reading and math achievement and work by Duncan et al. (2010) and Duncan and Brooks-Gunn (1997) show nonlinear effects indicating that changes in income effects

matter more for lower income children than for higher income children (Duncan et al. 2010). Although such studies in the United States demonstrate that income is more predictive of some types of outcomes than others it remains a major factor impacting the economic, health and educational attainment characteristics of poor Americans, particularly children (Dahl and Lockner 2005; Rothstein 2006).

Inequities at the Start

It is clear that many of the inequalities with the most lasting effects on later educational achievement and socioeconomic status are those which appear in early childhood. In order to eliminate the lack of readiness to learn at age 6, analysts (e.g., Tarlov and Debbink, 2008) believe that it is imperative that children from minority and poor backgrounds be provided early childhood education between the ages of 3 and 5. A number of studies have shown that early intervention is far more effective than remediation (United States Census Bureau 2006; Lu and Halfon 2003; Love et al. 2005; Magnuson and Waldfogel 2005; Karoly et al. 2005; Carnero and Heckman 2006; Lynch 2007).

The extent and complexity of interactions among race/ethnicity, educational achievement, income and poverty, and health factors at different stages of the life cycle are illustrated in an excellent analysis by Duncan and associates (2010) in which they note that their analysis:

“shows striking differences in adult outcomes depending on whether childhood income prior to age 6 was below, close to, or well above the poverty line during their early childhood. Compared with children whose families had incomes of at least twice the poverty line during their early childhood, poor children complete 2 fewer years of schooling, work 451 fewer hours per year, earn less than half as much, received \$826 per year more in food stamps as adults, and are more than twice as likely to report poor overall health or high levels of psychological distress. Further, poor children have BMIs [Body Mass Indices] that are 4 points higher than those well above the poverty line, and are almost 50% more likely to be overweight as adults. Poor males are twice as likely to be arrested and for females, poverty is associated with a \$200 annual increase in cash assistance, and a six fold increase in the likelihood of bearing a child out of wedlock prior to age 21. . . Children [from households] with average annual incomes below poverty in the earliest [age] period have lower average income for all three [adult] periods compared with the other two [more affluent] groups. Additionally, the poorest children are less likely to be White . . . have younger mothers, more siblings, household heads with lower test scores and educational attainment, homes rated dirtier by interviewers, lower parental expectations, and household heads who report less preference for challenge versus affiliation, less personal control, and less risk avoidance compared with their higher income counterparts.” (Duncan et. al., 2010: 323).

In sum, then, children who are poor and minority face substantial challenges in the United States. Their impact in the future is likely to be determined by what happens to them as children. Below we discuss the demographic and socioeconomic characteristics of the children of the Southwest that are likely to play major roles in determining their futures.

The Demographic Characteristics of the Children of the Southwest

In this section we provide a detailed discussion of the child population of the Southwest in the context of total population change for the Nation and the Southwest and national patterns of change in the child population. Because racial and ethnic diversity affects other demographic and socioeconomic differences we examine such patterns for the total child population and for the child population in each of several detailed racial and ethnic groups. Emphasis is placed on 2000-2010 Census data because it is the most recent and comprehensive data available. The intent of the discussion is to provide useful information for understanding both the diversity and complexity of factors impacting the children of the Southwest.

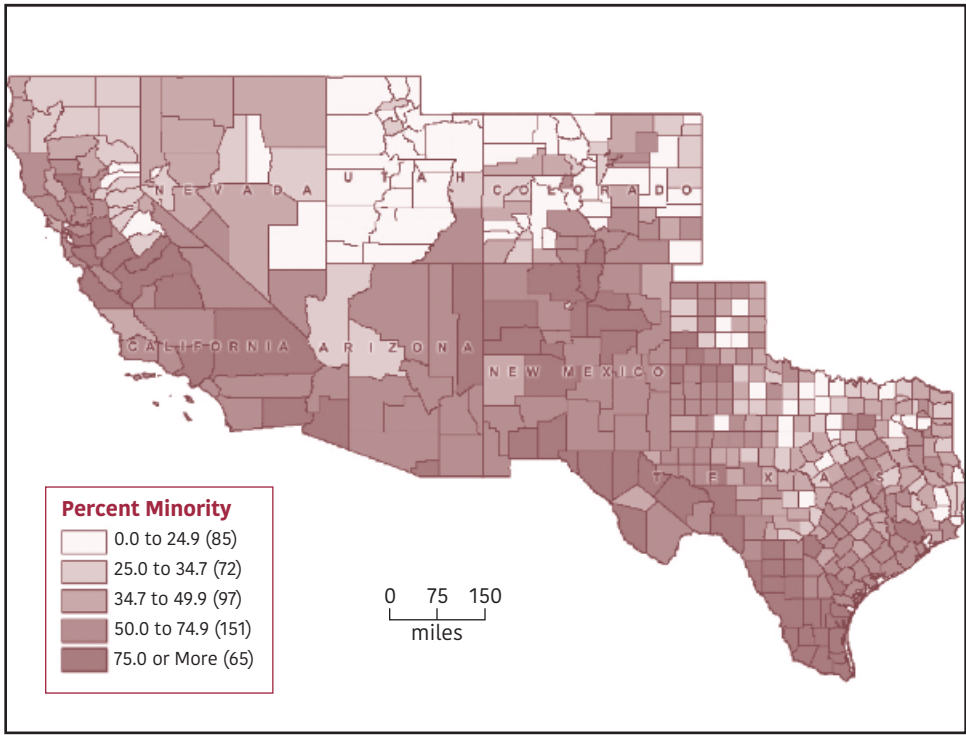
The seven southwestern states had a total population of 81,344,345 in 2010 accounting for 26.3 percent of the total United States population. Its total population increased by 11.1 million (15.9 percent) from 2000 to 2010 (see Table 1). This region accounted for 40.8 percent of population growth in the United States from 2000 to 2010. Several southwestern states were among the fastest growing in the nation. Texas with an increase of 4.3 million persons, California with an increase of nearly 3.4 million, Arizona with an increase of nearly 1.3 million, and Nevada with an increase of 702,000 were the first, second, sixth and tenth fastest growing states in the Nation from 2000 to 2010 in numerical terms and Nevada, Arizona, Utah, Texas, and Colorado were the first, second, third, fifth and ninth fastest growing states in percentage terms from 2000 to 2010. The Southwest Region is clearly a major center of national population growth.

There were 21,070,194 children in the southwest in 2010, 28.4 percent of the Nation's children (see Table 1). The importance of growth in child populations in the southwest is evident in the fact that whereas the overall level of growth in the child population was 2.6 percent in the Nation it was 8.9 percent in the Southwest. None of the southwestern states showed a decrease in their child populations from 2000 to 2010 while 23 of the 43 remaining states showed absolute numerical declines in child populations. In addition, four of the southwestern states were the four states with the largest percentage increases in children from 2000 to 2010 including Nevada with a 29.9 percent increase in its child population from 2000 to 2010, Utah with an increase of 21.2 percent, Arizona with an increase of 19.2 percent, and Texas with an increase of 16.6 percent.

The states of the Southwest are particularly important to the increase of the minority children in the United States. The Nation's children in 2010 were 53.5 percent non-Hispanic White, 23.1 percent Hispanic, 14.0 percent non-Hispanic Black, 0.9 percent non-Hispanic American Indian and Alaskan Native, 4.3 percent non-Hispanic Asian, and 4.2 percent non-Hispanic Other and two or more race children. Children in the Southwest included 18.4 percent of the Nation's non-Hispanic White children, 57.6 percent of its Hispanic children, 14.7 percent of non-Hispanic Black children, 32.9 percent of non-Hispanic American Indian and Alaskan Native children, 41.6 percent of the non-Hispanic Asian Children, and 26.6 percent of non-Hispanic Other and two or more race children (see Tables 2-8 and Figure 1).

Growth in the number of children varied widely across states and between different racial/ethnic groups. Thus the national decline in the number of non-Hispanic White Children was dramatic with a national decline from 2000 to 2010 of 4.3 million and with 46 of the 50 states showing absolute numerical declines in their number of non-Hispanic White children. The exceptions were Utah with an increase of 66,068, North Carolina with an increase of 31,201,

Figure 1: Minority Children as a Percent of Total Childhood Population



Source: U.S. Census 2000 and 2010, P.L. 94-171

Idaho with an increase of 21,967, and South Carolina an increase of 10,964. On the other hand many states showed substantial declines including California with a decline of 676,463; New York (357,041); Pennsylvania (303,042); Michigan, (269,881); Illinois (263,243); Florida (192,481), Texas (184,486); New Jersey (174,745); Massachusetts (173,450); and Maryland (with a 129,056 decline in the number of non-Hispanic White children). Within the Southwest in addition to the declines in the number of such children in California and Texas, and the growth in Utah, there was a decline of 922 non-Hispanic White children in Arizona, 18,740 in Colorado, 13,396 in Nevada, and a decline of 29,339 in New Mexico (see Table 3).

The most pervasive growth in child populations from 2000 to 2010 took place in the number of Hispanic children who increased in all 50 states with the largest increases of 931,012 children in Texas, 705,395 children in California, and 402,085 in Florida. Every State in the nation not only showed a numerical increase in the number of Hispanic children from 2000 to 2010 but only New York with an 8.9 percent increase, California with a 17.4 percent increase and New Mexico with an increase of 16.7 percent showed increases of less than 20 percent. In the Southwest (see Table 4) the increase in the number of Hispanic children was 28.5 percent (compared to 38.8 for the Nation as a whole) and, as shown in Table 4 Arizona increased its Hispanic population of children by 42.8 percent (210,803), California by 17.4 percent (705,395), Colorado by 44.6 percent (115,503), Nevada by 79.1 percent (115,733), New Mexico by 16.7 percent (43,271), Texas by 39.0 percent (931,012) and Utah by 84.0 percent (65,651).

Table 2: Total Childhood Population

Region	Population		Change 2000-2010		Percent of Regional Population		Percent of Regional Population	
	2000	2010	Numeric	Percent	2000	2010	2000	2010
United States	72,293,812	74,181,467	1,887,655	2.6	...	...	100	100
Southwest Region	19,343,401	21,070,194	1,726,793	8.9	100	100	26.8	28.4
Arizona	1,366,947	1,629,014	262,067	19.2	7.1	7.7	1.9	2.2
California	9,249,829	9,295,040	45,211	0.5	47.8	44.1	12.8	12.5
Colorado	1,100,795	1,225,609	124,814	11.3	5.7	5.8	1.5	1.7
Nevada	511,799	665,008	153,209	29.9	2.6	3.2	0.7	0.9
New Mexico	508,574	518,672	10,098	2.0	2.6	2.5	0.7	0.7
Texas	5,886,759	6,865,824	979,065	16.6	30.4	32.6	8.1	9.3
Utah	718,698	871,027	152,329	21.2	3.7	4.1	1.0	1.2

Source: U.S. Census 2000 and 2010, P.L. 94-171

The non-Hispanic Black population increased by more than 3.7 million (11.0 percent) from 2000 to 2010 with the largest increases in Florida (586,832), Georgia (579,335), Texas (522,570), North Carolina (296,553), and Maryland (209,494). Declines occurred in only six states including New York (28,766), Illinois (23,228), Michigan (18,291), California (18,122), Louisiana (970), and Hawaii (925). In the southwestern states the total non-Hispanic Black population increased by 715,114 or 14.2 percent (see Table 5). Growth in the Black population occurred in all southwestern states except California with an increase of more than 522,000 occurring in Texas. Increases were also large in Arizona which increased its non-Hispanic Black population by 89,160 or 59.5 percent and in Nevada which increased its Black population by 76,549 or 58.2 percent. As for the population as a whole, the non-Hispanic Black population of the Southwest had a higher rate of increase than the non-Hispanic Black population in the Nation.

The change in the number of non-Hispanic Black children shows a very different picture than that for the total population. In twenty-eight states there were increases in the number of non-Hispanic Black children while in 22 there were declines. Overall, the Nation had 248,081 fewer non-Hispanic Black children in 2010 than in 2000. The largest declines in this child population were in New York (145,565), California (130,295), Illinois (83,466), Michigan (63,644), and Louisiana (60,930). The largest increases were in Georgia (97,810); Texas (77,736); and Florida (64,302). Overall the Southwest showed a modest decline in its population of non-Hispanic Black children of 11,551 or 0.8 percent.

Of the seven southwestern states (see Table 5), California and New Mexico both showed declines while all of the rest showed increases in their populations of non-Hispanic Black children. Especially large percentage increases were evident in Utah (70.7 percent), Arizona (43.2 percent) and Nevada (36.4 percent).

The non-Hispanic Asian population, although much smaller than any of the other populations examined so far, has increased rapidly with an increase from 2000 to 2010 of more than 4.3 million (42.9 percent) from 2000 to 2010. This population increased in all 50 states

Table 3: Non-Hispanic White Children

Region	Population		Change 2000-2010		Percent of Regional Population		Percent of U.S. Population	
	2000	2010	Numeric	Percent	2000	2010	2000	2010
United States	44,027,087	39,716,562	-4,310,525	-9.8	...	...	100	100
Southwest Region	8,171,262	7,313,984	-857,278	-10.5	100	100	18.6	18.4
Arizona	678,674	677,752	-922	-0.1	8.3	9.3	1.5	1.7
California	3,222,858	2,546,395	-676,463	-21.0	39.4	34.8	7.3	6.4
Colorado	729,020	710,280	-18,740	-2.6	8.9	9.7	1.7	1.8
Nevada	276,179	262,783	-13,396	-4.9	3.4	3.6	0.6	0.7
New Mexico	165,301	135,962	-29,339	-17.8	2	1.9	0.4	0.3
Texas	2,507,147	2,322,661	-184,486	-7.4	30.7	31.8	5.7	5.8
Utah	592,083	658,151	66,068	11.2	7.2	9	1.3	1.7

Source: U.S. Census 2000 and 2010, P.L. 94-171

Table 4: Hispanic Children

Region	Population		Change 2000-2010		Percent of Regional Population		Percent of U.S. Population	
	2000	2010	Numeric	Percent	2000	2010	2000	2010
United States	12,342,259	17,130,891	4,788,632	38.8	...	...	100	100
Southwest Region	7,672,690	9,860,058	2,187,368	28.5	100	100	62.2	57.6
Arizona	493,143	703,946	210,803	42.8	6.4	7.1	4.0	4.1
California	4,050,825	4,756,220	705,395	17.4	52.8	48.2	32.8	27.8
Colorado	258,722	374,225	115,503	44.6	3.4	3.8	2.1	2.2
Nevada	146,234	261,967	115,733	79.1	1.9	2.7	1.2	1.5
New Mexico	258,806	302,077	43,271	16.7	3.4	3.1	2.1	1.8
Texas	2,386,765	3,317,777	931,012	39.0	31.1	33.6	19.3	19.4
Utah	78,195	143,846	65,651	84.0	1.0	1.5	0.6	0.8

Source: U.S. Census 2000 and 2010, P.L. 94-171

with the largest numerical increases in California (1,126,210), Texas (393,981) and New York (370,268) and the smallest increases in the states with generally small populations (e.g., Montana, North and South Dakota, Maine, Vermont, and Wyoming). Another indication of the extent of growth in this population is the fact that in 27 of the 50 states there was an increase in Asian populations of more than 50 percent. California's increase of 1.1 million non-Hispanic Asians from 2000 to 2010 led that in all other southwestern states followed by a 393,981 increase in Texas and an increase of 102,454 in Nevada (see Table 6).

The increase in the number of non-Hispanic Asian children was from 1,069,187 to 1,322,105, an increase of 252,918 (23.7 percent) with California accounting for 14.6 percent of the increase in non-Hispanic Asian children in the Nation and 43.6 percent of the increase in

Table 5: Non-Hispanic Black Children

Region	Population		Change 2000-2010		Percent of Regional Population		Percent of U.S. Population	
	2000	2010	Numeric	Percent	2000	2010	2000	2010
United States	10,610,264	10,362,183	-248,081	-2.3	...	...	100	100
Southwest Region	1,535,539	1,523,988	-11,551	-0.8	100	100	14.5	14.7
Arizona	46,684	66,852	20,168	43.2	3	4.4	0.4	0.6
California	653,820	523,525	-130,295	-19.9	42.6	34.4	6.2	5.1
Colorado	47,109	49,967	2,858	6.1	3.1	3.3	0.4	0.5
Nevada	40,739	55,548	14,809	36.4	2.7	3.6	0.4	0.5
New Mexico	8,789	8,009	-780	-8.9	0.6	0.5	0.1	0.1
Texas	732,807	810,543	77,736	10.6	47.7	53.2	6.9	7.8
Utah	5,591	9,544	3,953	70.7	0.4	0.6	0.1	0.1

Source: U.S. Census 2000 and 2010, P.L. 94-171

Table 6: Non-Hispanic Asian Children

Region	Population		Change 2000-2010		Percent of Regional Population		Percent of U.S. Population	
	2000	2010	Numeric	Percent	2000	2010	2000	2010
United States	2,420,274	3,176,129	755,855	31.2	...	...	100	100
Southwest Region	1,069,187	1,322,105	252,918	23.7	100	100	44.2	41.6
Arizona	19,984	38,192	18,208	91.1	1.9	2.9	0.8	1.2
California	855,747	965,988	110,241	12.9	80	73.1	35.4	30.4
Colorado	22,893	32,225	9,332	40.8	2.1	2.4	0.9	1.0
Nevada	18,302	36,475	18,173	99.3	1.7	2.8	0.8	1.1
New Mexico	4,132	5,349	1,217	29.5	0.4	0.4	0.2	0.2
Texas	139,226	231,458	92,232	66.2	13	17.5	5.8	7.3
Utah	8,903	12,418	3,515	39.5	0.8	0.9	0.4	0.4

Source: U.S. Census 2000 and 2010, P.L. 94-171

the Southwest (see Table 6) occurring in California. Texas followed with a 92,232 increase accounting for 36.5 percent of the growth in this population in the Southwest. Arizona and Nevada each added more than 18,000 non-Hispanic Asian children with percentage increases of over 90 percent from 2000 to 2010 in both states. In all of the remaining states in this region there were increases of more than 29 percent in the number of non-Hispanic Asian children during the 2000 to 2010 time period.

The non-Hispanic American Indian and Alaskan Native population of the United States consisted of 2,247,098 people in 2010, an increase of 178,215 in the Nation and 37,776 in the Southwest since 2000. It increased relatively slowly with an increase nationally of 8.6 percent and a Southwestern increase of 5.2 percent from 2000 to 2010. The largest populations in this

Table 7: Non-Hispanic American Indian/Alaska Native Children

Region	Population		Change 2000-2010		Percent of Regional Population		Percent of Regional Population	
	2000	2010	Numeric	Percent	2000	2010	2000	2010
United States	685,911	647,321	-38,590	-5.6	...	...	100	100
Southwest Region	240,895	213,205	-27,690	-11.5	100	100	35.1	32.9
Arizona	90,430	82,219	-8,211	-9.1	37.5	38.6	13.2	12.7
California	49,112	37,230	-11,882	-24.2	20.4	17.5	7.2	5.8
Colorado	7,929	7,298	-631	-8.0	3.3	3.4	1.2	1.1
Nevada	6,057	5,679	-378	-6.2	2.5	2.7	0.9	0.9
New Mexico	59,743	53,406	-6,337	-10.6	24.8	25	8.7	8.3
Texas	17,319	18,730	1,411	8.2	7.2	8.8	2.5	2.9
Utah	10,305	8,643	-1,662	-16.1	4.3	4.1	1.5	1.3

Source: U.S. Census 2000 and 2010, P.L. 94-171

Table 8: Non-Hispanic Other Children Including Two or More Races

Region	Population		Change 2000-2010		Percent of Regional Population		Percent of Regional Population	
	2000	2010	Numeric	Percent	2000	2010	2000	2010
United States	2,208,017	3,148,381	940,364	42.6	...	...	100	100
Southwest Region	653,828	836,854	183,026	28.0	100	100	29.6	26.6
Arizona	38,032	60,053	22,021	57.9	5.8	7.2	1.7	1.9
California	417,467	465,682	48,215	11.6	63.8	55.6	18.9	14.8
Colorado	35,122	51,614	16,492	47	5.4	6.2	1.6	1.6
Nevada	24,288	42,556	18,268	75.2	3.7	5.1	1.1	1.4
New Mexico	11,803	13,869	2,066	17.5	1.8	1.7	0.5	0.4
Texas	103,495	164,655	61,160	59.1	15.8	19.7	4.7	5.2
Utah	23,621	38,425	14,804	62.7	3.6	4.6	1.1	1.2

Source: U.S. Census 2000 and 2010, P.L. 94-171

group are in Oklahoma with a population of 308,733, Arizona with 257,426, New Mexico with 175,368, California with 162,250, North Carolina with 108,829, Alaska with 102,556, and Texas with 80,586. Thus four of the states with the largest non-Hispanic American Indian and Alaskan Native populations are in the Southwest (see Table 7).

The child population of non-Hispanic American Indians and Alaskan Natives consists of 647,321 children nationally in 2010, 213,205 (or 32.9%) of whom live in the southwestern states (see Table 7). As with the non-Hispanic White and the non-Hispanic Black population the non-Hispanic American Indian and Alaskan Native child population is decreasing with the national population decreasing by 38,590 (5.6%) and the population in the Southwest decreasing by 27,690 (11.5%). The only state with an increase of relatively substantial size from

2000 to 2010 is Oklahoma with a 6,369 (6.7 percent) increase in its child population. The overall pattern of decline is evident as well in the Southwest with declines evident in every state except Texas which increased its population by 1,411 or 8.1 percent while the largest decrease occurred in California with a decrease of 11,882 or 24.2 percent, followed by Arizona with a decrease of 8,211 or 9.1 percent and New Mexico with a decrease in the number of children of 6,337 (10.6 percent).

The last population group to be examined here consists of children classified as in the non-Hispanic Other racial group or who are non-Hispanic and identified with two or more racial groups. This group although relatively small (only 7,052,322 [5,966,481 who claim 2 or more races and 1,085,841 the Other racial identity] and 3,148,381 children [2,789,571 who claim membership in two or more races and 358,810 who claim the Other racial category] in 2010) is increasing at a faster percentage rate than any other racial/ethnic groups except Hispanics and Asians.

The largest increase in the total population in this population group is occurring in such diverse states as Texas (110,176) and California (104,328) with the overall increase in this group in the child population in the Southwest being 183,026 with the largest individual state increases occurring in the number of non-Hispanic Other and Two or more race children in Texas (61,160), California (48,215), and Arizona (22,021) (see Table 8). Only 19.5 percent of the population in this group is in the Southwest, a substantially lower proportion than the 28.4 percent that the Southwest makes up of the total child population. Nevertheless this group, particularly its two or more race component, merits attention in the coming decades.

Overall, then when the detailed racial/ethnic categories are examined, it is evident that the Southwest is an area of substantial growth and diversification. Its 2000 to 2010 increase in its child population was equivalent to 91.5 percent of the total growth in the child population in the United States during the decade and it is the area of residence for a majority of Hispanic children and for disproportionate shares of non-Hispanic Asians, and non-Hispanic American Indians and Alaskan Native children. As shown below being members of these groups is related (due to a variety of historical, discriminatory and other factors) to substantial differences in socioeconomic characteristics.

The Socioeconomic Characteristics of the Children of the Southwest

The children of the Southwest have high levels of socioeconomic need. This is evident in the data in this section of our report. Here we discuss these differentials needs relative both to national levels and relative to differences among the states within the Southwest.

Table 9 and Figure 2 shows the percent of children in poverty obtained from analysis of the 2010 American Community Survey data. These are single year estimates and thus the potential for sampling error is greater than that for larger multi-year samples. However given the use of state-sized units in this analysis and the desire to have data more directly comparable to the 2010 Census year the data set selected for analysis is clearly appropriate.

These data show substantial levels of need for the children in the region. In five of the seven states in the Southwest the percentage of children in poverty is greater than the percentage in the Nation as a whole with both Texas and New Mexico showing more than one-in-four chil-

Table 9: Estimates of Children in Families and Subfamilies with Incomes Less Than 100% of the Federal Poverty Level in 2010

Region	< 100% of Poverty		Percent of All Children in Poverty	
	Number	Percent	Southwest	U.S.
United States	14,784,994	20.9	...	100
Southwest Region	4,524,245	22.5	100	30.6
Arizona	363,438	23.6	8	2.5
California	1,897,234	21.4	41.9	12.8
Colorado	198,147	16.8	4.4	1.3
Nevada	136,058	21.5	3.0	0.9
New Mexico	145,437	29.6	3.2	1.0
Texas	1,652,737	25.2	36.5	11.2
Utah	131,194	15.5	2.9	0.9

* Population for whom poverty is determined.
Source: American Community Survey, 2010 1-Year Estimates

Table 10: Estimates of Children with No Health Insurance During the Previous 12 Months (2010)

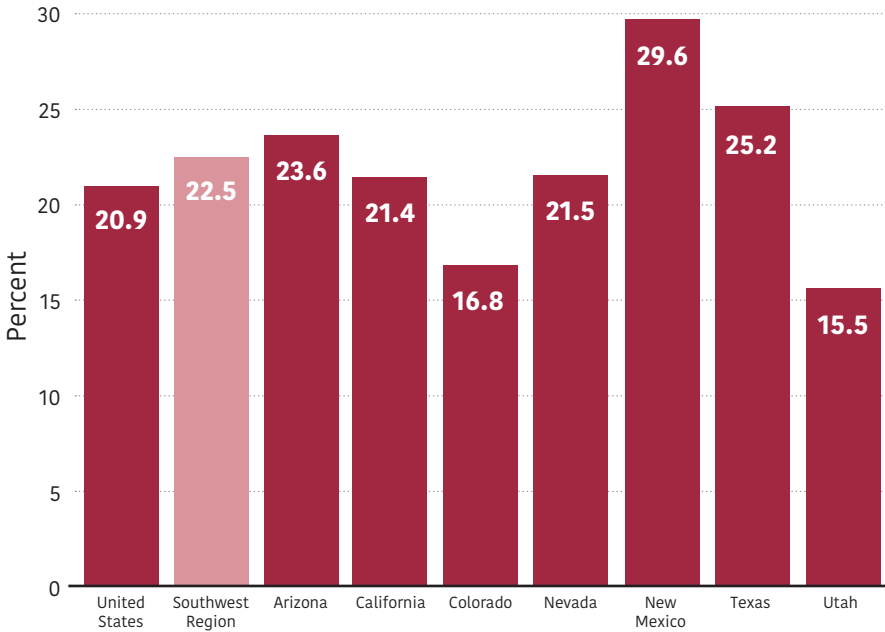
Region	No Health Insurance Coverage*		Percent of Uninsured Children	
	Number	Percent	Southwest	U.S.
United States	5,918,388	8.0	...	100
Southwest Region	2,424,261	11.5	100	41.0
Arizona	207,967	12.8	8.6	3.5
California	832,752	9.0	34.4	14.1
Colorado	124,128	10.1	5.1	2.1
Nevada	115,339	17.4	4.8	1.9
New Mexico	52,891	10.2	2.2	0.9
Texas	996,493	14.5	41.1	16.8
Utah	94,691	10.9	3.9	1.6

*Non Institutionalized civilian population less than age 18 only.
Source: American Community Survey, 2010 1-Year Estimates

dren living in poverty. The data also indicate that three of every ten children living in poverty in the Nation resided in the seven southwestern states.

Table 10 and Figure 3 shows data on another factor often associated with more positive outcomes for children; their likelihood of having health insurance. These data show greater levels of disadvantage for minority children in the Southwest. More than 1 in 9 children (11.5 percent) lacked health insurance with every state in the region having a higher percentage of children without health insurance than the Nation as a whole. Equally startling is the fact that

Figure 2: Percent of Children in Families and Subfamilies with Incomes Less Than 100% of the Federal Poverty Level, 2010



although the region had 28.4 percent of all the children in the Nation, the region contained 41 percent of all the uninsured children in the Nation. In Nevada more than one-in-six, in Texas more than one-in-seven and in Arizona more than one-in-eight had no health insurance. Such data point to the socioeconomic disadvantages faced by many children in the Southwest.

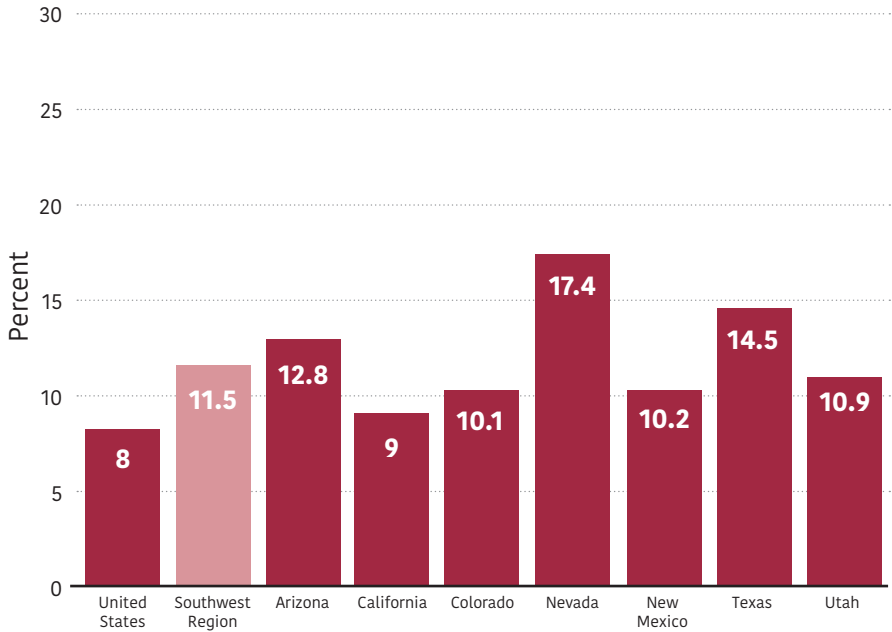
The data in the demographic section of this report indicated that the children of the Southwest are disproportionately from minority racial and ethnic groups. The data in this section show that they are also disproportionately disadvantaged in terms of the poverty levels and health insurance coverage. It is evident then that the unfortunate outcomes associated with such characteristics (as delineated in the literature discussed above) are also likely to disproportionately impact the children of the Southwest.

Conclusions

In 2008, the Census Bureau projected that racial and ethnic minorities, everyone but non-Hispanic single-race Whites, will become the majority of the total population by 2042 (United States Census Bureau 2008a). What the Census Bureau did not report was that today's diverse young people, whose growth resulted from increased immigration, high fertility and (in the Southwest) from interregional patterns of internal migration, are also increasingly poorer and less well-educated than past generations.

Our research has documented that the rapid increase of Hispanic and other minority youth, accounted for nearly all growth in the population under the age of 18 in the United States since

Figure 3: Percent of Children without Health Insurance Coverage in the Previous 12 Months, 2010



2000, because there was an absolute decline in the number of non-Hispanic White children. Data from the 2010 Census show that the number of minority children increased by nearly 6.2 million from 2000 to 2010 with the percentage of minority children increasing from 39.0 percent of all children in 2000 to 46.5 percent of all children in the United States by 2010.

The data shown above also show that the children of the southwestern United States are also poorer with higher levels of poverty, lower incomes and lower rates of health insurance coverage than children in the United States as a whole. They are particularly disadvantaged and likely to be negatively impacted by the type of impacts delineated in the literature review.

What is also evident is that the children of today will not be successful without substantial assistance from an older population that now and in the future is likely to possess superior socio-economic resources. However, Samuel Preston (1984) argued, nearly three decades ago, argued that the United States' declining fertility rates, increasing longevity and consequent aging of the United States' population had effectively shifted the resources and wealth of the Nation from its youth to the elderly. We find that for some areas of the United States this shift is already evident, as we find that the social (as demonstrated by educational attainment) and economic (as demonstrated by income and poverty levels) realities experienced by minority children and youths have deteriorated with each subsequent generation while that of the majority elderly have improved.

The major question raised by such statistics is: Will the United States' adult population (through elections, taxes and other factors) support the youth who are racially and culturally different from themselves and their children or will they perpetuate a dual class education and

economic structure which has dominated many areas in the United States, including many areas in the Southwest? The concerns by Preston nearly three decades ago were that, "Americans have never had any strong sense of collective responsibility for other people's children, only private responsibility for their own (1984:448)." This effect has been exacerbated over the past three decades for youths who are minority, disproportionately poor and live in spatially separate communities. This concern is verified by findings from Poterba (1997) and others who have found that in communities with large proportions of elderly residents there was significantly lower per-child educational spending, especially when the children were of a different race from that of their elders. The future of areas such as the Southwest, and of the Nation as a whole, may be markedly affected by the extent to which its older populations are willing to step forward to support its increasingly diverse youth.

What is clearly evident is that the future of the Southwest and the United States as a whole is increasingly tied to the future of its minority populations. They are currently disproportionately poor with poorer levels of health and educational levels which promise to make them less competitive as adults both nationally and internationally. Whether the nation prospers or struggles to maintain its current standard of living and whether it can compete internationally will depend on how well the diverse children such as those in the Southwest do. Ultimately, how well these children do will be how well America will do.

References

- Backlund E, P.D. Sorlie, and N.J. Johnson. 1999. "A comparison of the relationships of education and income with mortality: the National Longitudinal Mortality Study." *Social Science Medicine* 49(10): 1373-1384.
- Blau, D. 1999. "The effect of income on child development" *Review of Economics and Statistics*, 81 (2), 261-276
- Brooks-Gunn J. P., K. Klebanov, G. Duncan. 1996. "Ethnic differences in children's intelligence test scores: role of economic deprivation, home environment, and maternal characteristics." *Child Development* 67(2): 396-408.
- Braveman, Paula. 2009. "A health disparities perspective on obesity research." *Preventing Chronic Disease: Public Health Research, Policy, and Practice*. 6(3).
- Campbell, S. B. 1995. "Behavioral problems in preschool children a review of recent research." *Journal of Child Psychology and Psychiatry*, 36: 113-49.
- Carneiro P., J. Heckman. 2005. *Human Capital Policy*. In Friedman B. (ed.) *Inequality in America*. Cambridge, MA: MIT Press: 77-239.
- Chase-Lansdale, P., R. Gordon, Rachel Gordon, Jeanne Brooks-Gunn and Pamela Klebanov. 1997. "Neighborhood and family influences on intellectual and behavioral competence of preschool and early school-age children" in J. Brooks-Gunn, G. Duncan and J. L. Aber (eds.) *Neighborhood Poverty: Context and Consequences for Children*. (vol. 1:77-118). New York Russell Sage
- Charles, Camille Dubinsky. 2003. "The dynamics of racial residential segregation." *Annual Review of Sociology* 29: 167-207.
- Cramer, J.C. 1995. "Racial and ethnic differences in birth weight: the role of income and financial assistance." *Demography*, 32:231-47.
- Cutler, D.M. and A. Lleras-Muney. 2006 *Education and health: evaluating theories and evidence*. NBER working paper No. 12352. Available at: <http://ssrn.com/abstract=913315>. Accessed December 2009.
- Dahl G. L. Lochner. 2005. "The impact of family income on child achievement." Madison, WI: Institute for Research on Poverty Paper no. 1305-05.
- Duncan, G.J., Ziol-Guest, K.M. and A. Kalil. 2010. "Early childhood poverty and adult attainment, behavior, and health." *Child Development* 81(1) 306-325.
- Duncan, G. and J. Brooks-Gunn. (Eds.) 1997. *Consequences of Growing Up Poor*. New York: Russell Sage Foundation.
- Duncan, G., J. Brooks-Gunn, and P.K. Klebanov. 1994. "Economic deprivation and early childhood development." *Child Development* 65: 296-318.
- Ernst, P.K., D.L. Joseph, U. Locher and M.R. Becklake. 1995. "Socioeconomic status and indicators of asthma in children." *American Journal of Respiratory Critical Care Management* 152:570-575.
- Gortmaker, S. L. 1979. "Poverty and infant mortality in the United States." *American Sociological Review* 44: 280-97.
- Johnson R.C. and R. F. Schoeni. 2007. *The Influence of Early-Life Events on Human Capital, Health Status, and Labor Market Outcomes over the Life Course*: Ann Arbor, MI Institute of Research on Labor and Employment. RSC Research Report 2007 No. 07-616.

- Johnson, Kenneth M. and Daniel T. Lichter. 2010. "Growing diversity and America's children and youth: spatial and temporal dimensions." *Population and Development Review* 6(1): 151-176.
- Karoly L., M. Kilburn and J Cannon. 2005. *Early Childhood Interventions, Proven Results, Future* Santa Monica, CA: Rand Corporation.
- Korenman, S. and J.E. Miller. 1997. "Effects of long-term poverty on physical health of children in the National Longitudinal Survey of Youth," in D.J. Duncan and J. Brooks-Gunn (eds.) *Consequences of Growing up Poor*. New York: Russell Sage Foundation, pp. 70-99.
- Korenman, S., J.E. Miller, and J.E. Sjaasad 1995. "Long-term poverty and child development in the United States: results from the NLSY." *Children Youth Service Review* 17: 127-55.
- Kutner, M., I Greenberg, Y. Jin, B. Boyle, Y. Hsu, E. Dunleavy, 2007. *Literacy in everyday life: results from the 2003 National Assessment of Adult Literacy*. Washington, DC: US Department of Education: NCES 2007-4800.
- Lee, Valerie E. and David T. Burkam. 2002 (Second Printing 2003). *Inequality at the Starting Gate: Social Background Differences in Achievement as Children Begin School*. Economic Policy Institute, Washington D.C. 20036.
- Love, J.M., E. E. Kisker, and C. Ross 2005. "The effectiveness of early head start for 3-year-old children and their parents; lessons for policy and programs." *Developmental Psychology* 42(6):885-901.
- Lu M.C. and N. Halfon. 2004. "Racial and ethnic disparities in birth outcomes: a life-course perspective." *Maternal and Child Health Journal* 7(1):13-30.
- Lynch, R.G. 2007. *Enriching Children. Enriching the Nation: Public Investment in High-Quality Prekindergarten*. Washington, DC: Economic Policy Institute.
- McGaughey, P. J., B. Starfield, C. Alexander, and M.E. Ensminger. 1991. "Social environment and vulnerability of low birth weight children: a social-epidemiological perspective," *Pediatrics* 88: 943-53.
- McLeod, J.D. and M.J. Shanahan. 1993. "Poverty, parenting and children's mental health." *American Sociological Review* 58: 351-66.
- Magnuson K.A. and J. Waldfogel. 2005. "Early childhood care and education effects on ethnic and racial gaps in school readiness." *Future Child*. (1):169-196.
- Murdock, Steve H., Michael Cline, Mary Zey, and Stephen Klineberg. 2010. "Poverty, Educational Attainment, and Health Among America's Children: Current and Future Effects of Population Diversification and Associated Socioeconomic Change." *The Journal of Applied Research on Children: Informing Policy for Children at Risk*. 1(1) 1-33.
- Murdock, S.H. *An America Challenged: Population Change and the Future of the United States*. Boulder, Colorado, Westview Press. 1995
- Murdock, S.H., White, S.W., Hoque, N., Pecotte, B., You, X, and J. Balkan. 2003 *The New Texas Challenge: Population Change and the Future of Texas*. College Station, TX: Texas A&M University Press.
- Porterba. James. 1997. "Demographic structure and political economy of public education," *Journal of Policy Analysis and Management* 16: 48-66.
- Preston, Samuel H. 1984. "Children and the elderly: Divergent paths for America's dependent," *Demography* 21: 435-457.
- Rothstein R. 2006. "Proficiency for all: an oxymoron." Paper presented for the Symposium. *Examining American's Commitment to Closing Achievement Gaps: NCLB and Its Alternatives*. Sponsored by the Campaign for Educational Equality. Teachers College. Columbia University. November 13-14.
- Smith., J.R., J. Brook-Gunn, and P.K. Klebanov. 1997. "Consequences of living in poverty for young children' cognitive and verbal ability and early school achievement," in G. J. Duncan and J. Brooks-Gunn (eds.), *Consequences of Growing Up Poor*. New York: Russell Sage Foundation. pp. 132-89.
- Solon, Gray. 2002. "Cross country differences in intergenerational earnings mobility," *Journal of Economic Perspectives* 16(3): 59-66.
- Starfield, B. 1991. "Childhood morbidity: comparisons, clusters, and trends," *Pediatrics* 88: 519-26.
- Stockwell, E. G., F.W. Goza, and J. L. Roach. 1995. "The relationship between socioeconomic status and infant mortality in a metropolitan aggregate 1989-1991," *Sociological Forum* 10: 297-308.
- Swanson C. 2004. *Who graduates? Who Doesn't?* Washington, DC. Urban Institute.
- Tarlov, A. and M. P. Debbink. *Investing in Early Childhood Development*. New York: Palgrave MacMillan. 2008
- Tresserras, R., J., Canela, J. Alvarez, J. Sentis and I. Salleras. 1992. "Infant mortality, per capita income, and adult illiteracy: an ecological approach." *American Journal of Public Health* 82: 455-8.
- United States Census Bureau 2008. "2008 national population projections," Washington: United States Census Bureau.
- United States Census Bureau. 2006. *Current Population Survey (CPS) Annual Social and Economic (ASEC) Supplement POV03: People in families with related children under 18 by family structure, age, and sex, iterated by income-to-poverty ratio and race*. Washington, D.C.: United States Census Bureau
- United States Census Bureau. 2011. *American Community Survey, 2010 1-Year Public Use Microdata Sample*.
- United States Census Bureau. PL94-171. 2011. Washington, D. C.
- United States Center for Disease Control. 2009. *America's Children in Brief: Key National Indicators of Well-Being*. Atlanta, Ga.: United States Center for Disease Control
- Wise, P. H., M. Kotelchuck, M. I. Wilson, and M. Mills. 1985. "Racial and socio-economic disparities in childhood mortality in Boston," *New England Journal of Medicine* 313: 360-6.
- Wise, P.H. and A. Meyers. 1988. "Poverty and child health," *Pediatrics Clinic of North America* 35: 1169-86.

EDUCATION



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

**USING A BIRTH TO THIRD GRADE
FRAMEWORK TO PROMOTE
GRADE-LEVEL READING:**
Promising Practices in Improving
Academic Achievement among
California's English Language Learners

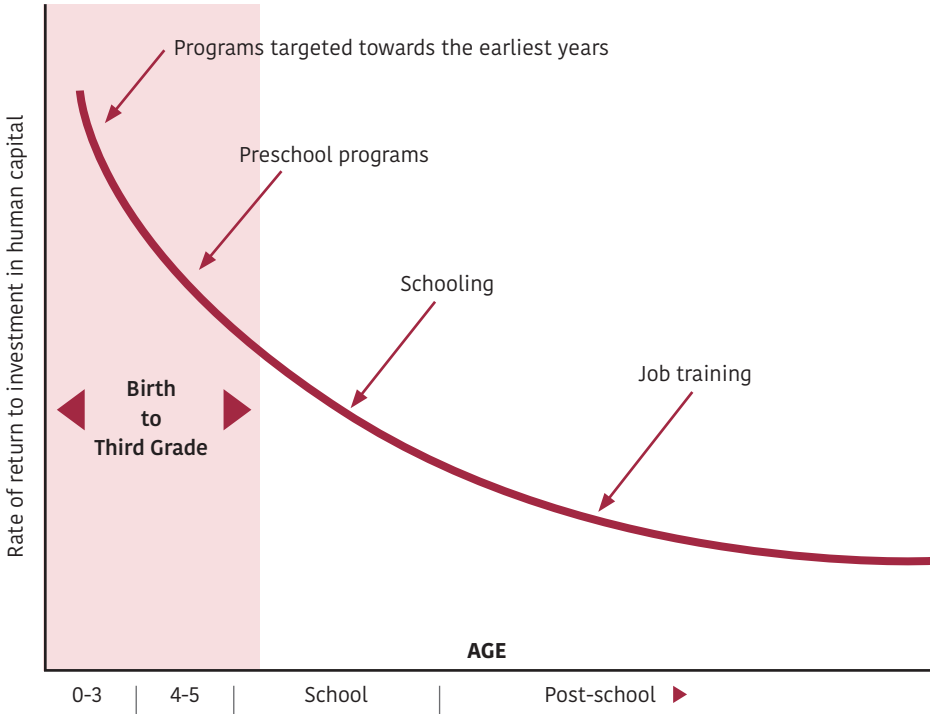
by

**Jessica Mindnich, Ph.D., Derya Arac,
Elizabeth Cavagnaro, Melina Sanchez, Giannina Perez,
Marguerite Ries, Samantha Tran, Brad Strong,
and Louella Ilog**
Children Now

Edited by Ted Lempert, Kristi Schutjer-Mance,
Brian Kennedy, and Michael Altamirano
Children Now

Providing children with a solid educational foundation early in life has a profoundly positive effect on the trajectory of their lives and their earning potential. Economist and Nobel laureate James Heckman found that investing early in children’s lives yields the highest rate of return on investment (ROI) in human capital due primarily to reductions in future crime, increased future earnings, and higher tax revenues.¹ In fact, investing in high-quality early learning opportunities can yield a return of \$7-17 for every \$1 spent.²

Rates of Return to Human Capital Investment at Different Ages



Source: James Heckman, “Schools, Skills and Synapses.” *Economic Inquiry*. 2008.

Additionally, investing in children’s education from birth to third grade is critically important because their success in school and beyond is heavily influenced by their mastering reading during this stage. Students who are not able to read at or above proficiency by the end of third grade quickly fall behind.³ **Approximately seventy-five percent of third graders with poor reading skills continue to struggle through high school,⁴ increasing their odds of dropping out.** As such, politicians, researchers, educators, and advocates are focusing on the transition from learning to read to reading to learn as an early benchmark of children’s academic progress.

Analyzing California’s test scores across gender, race and ethnicity, socio-economic status, disability, and primary language reveals that English language learners’ fourth grade reading skills are worse than all other subgroups⁵. In 2011, an astounding 95 percent of California’s English language learners fail to read at grade-level in fourth grade.⁶ So it is not surprising that 43 percent of the state’s English language learners fail to graduate with their high school classmates.⁷

With projections suggesting that the state will have a shortage of one million college graduates to meet the state’s labor demands by 2025, California cannot afford to ignore the education and well-being of the state’s 1.8 million⁸ English language learners (28 percent of all CA K-12 students).⁹ Therefore, policy intervention must seek to build a birth-to-third-grade system of support that reflects the strong ROI in children and supports their education and life-long success.

To increase the high school graduation rates of English language learners, we learn from and scale up promising practices that support the health, learning, and well-being of all children, with a particular emphasis on California’s youngest children. Some of the programs and strategies that are improving the educational opportunities for English language learners include:

- Home visitation programs that serve expectant mothers, infants and young children;
- High-quality infant and toddler child care;
- High-quality preschool programs;
- Transitional programs that support strong connections between preschools and kindergartens;
- Engagement strategies that emphasize the importance of attendance and curb chronic absence; and
- Summer Programs that provide enriching learning opportunities.

By providing strong support from birth through third grade, policymakers can dramatically improve how English language learners—and all children—begin, prepare for, and ultimately succeed in school and life.

Starting early: High-quality early learning opportunities support school readiness

“School readiness” refers to the development of physical, cognitive, and socio-emotional skills that are needed to learn in kindergarten. For example, a kindergartener must be able to hold a pencil, understand that a letter corresponds to a sound and know how to take turns. While the benchmarks for readiness are universal, the programs offered to ensure that all children are “ready to learn” vary widely.

Improving the school readiness of the nearly 1.6 million (57 percent)¹⁰ California children under the age of five who live in a home where a language other than English is spoken requires culturally and linguistically appropriate programs. While there is little data about California’s population of children whose primary home language is not English, it is estimated that 28 percent of children from birth to kindergarten entry have primary home languages other than English.¹¹ These young English language learners face a school readiness gap long before they enter kindergarten and therefore are less prepared than other children to meet the academic requirements of elementary school. In order to close this gap and support young English language learners, a continuum of quality early learning programs starting at or before birth up through kindergarten entry is critical to laying the strong foundation all children need to

achieve grade-level reading proficiency. In doing so, such programs set the stage for children's academic and life long success.

In particular, supporting children's native languages while they learn English benefits both language and cognitive development.¹² More specifically, when children first develop strong phonemic and letter knowledge in their native language they can acquire better English skills.

Judith Tang
Attorney, Wendel Rosen Black & Dean LLP
Oakland, CA

"My family emigrated from Hong Kong to the United States (to Oakland) when I was 4 years old. My parents did not speak English and my first exposure to English was at the Yuk Yau Child Development Center, who had and continues to have a combination of English and bilingual Chinese speaking teachers. This program helped me retain my Chinese speaking, reading, and writing skills, while at the same time allowing me to become proficient at the English language. Being a bilingual attorney at Oakland's largest law firm has greatly increased the opportunities for me to serve my community and my clients."

There are many promising programs in place in California that are improving English language learners' early education. The experience of these existing programs can be used to inform the effort to refine and expand the early education of English language learners and all children.

School readiness at home: Home visitation programs

Home visitation programs seek to improve the health and well-being of pregnant women and their children from birth to age five. These programs commonly focus on improving school readiness, assisting families in their pursuit of economic self-sufficiency, and curbing child maltreatment, crime, and domestic violence.¹³ Established evidence-based models such as the Nurse-Family Partnership have a strong track record in California of supporting first-time mothers and their young children who are dual language learners.¹⁴

HABLA (Home-based Activities Building Language Acquisition) is an example of a promising home visitation program that specifically addresses language acquisition and improves school readiness among preschoolers in Spanish speaking, low-income, low-education families in Santa Ana, CA.¹⁵ Sponsored by the University of California, Irvine, **HABLA home visitors "intensively coach parents to facilitate school readiness by providing optimal language play, shared reading, and developmentally appropriate activities."**¹⁶ **As a result, HABLA participants have greater rhyme and phoneme awareness than non-participants.**¹⁷

School readiness among infants and toddlers: High-quality infant and toddler care

High-quality infant and toddler care minimizes cognitive and socio-emotional disparities and supports language development.¹⁸ By age three, children in more affluent families will have heard 30 million more words, on average, than children in low-income families.¹⁹ This difference is likely to contribute to future achievement gaps, as children's vocabulary development by age three has been shown to predict school achievement in third grade.²⁰

Early Head Start is a federally funded program that improves prenatal health for pregnant women, supports the cognitive, linguistic and socio-emotional development of infants and toddlers and increases healthy family functioning thereby reducing children's behavioral problems.²¹ A local Early Head Start grantee, Pediatric Therapy Network (PTN), located in Torrance, California, provides resources to a diverse population of young dual language learners and their families. **In addition to offering many comprehensive programs designed for children with special needs, including providing children with physical, occupational, and speech-language therapies, PTN's innovative approach is rooted in their respect of families' home language.**

Araceli Espinoza

Early Head Start Coordinator, Pediatric Therapy Network Torrance, CA

“Many of the families we are working with in this area are dual language learners in which the population represented is English/Spanish, English/Arabic, and a mixture of Japanese and Chinese/English. Our approach is to value whichever language they are learning. The children and families in this program are multi-challenged which creates a level of barriers and risk factors. At PTN we are able to address these multiple needs because they start with us at a very young age since our point of entry is when a parent is pregnant.”

School readiness among preschoolers: transitional support

Children who participate in quality preschool are more likely to graduate with their peers and go to college than those who don't participate.²² Despite the undisputed benefits of quality preschool, children living in non-English speaking households (49 percent) and Latino children (51 percent), have the lowest non-parental ECE and center-based arrangements while White (65 percent) and African American, and Asian children (71 percent) participate at higher rates.²³

Quality preschool programs also support the transition into kindergarten and are critical to boosting early academic achievement and ensuring that children do not lose ground as they move into elementary school. Sobrato Early Academic Language (SEAL) is one promising program that serves preschool-age children and kindergarteners in San Mateo and Santa Clara counties, where nearly three in four children are designated as English language learners.²⁴ **SEAL focuses on both aligning local preschool and K-3 systems and the development of rich and complex language and spoken and written discourse skills among English language learners.**

SEAL promotes the alignment of preschool and elementary school systems by providing, such activities as, summer bridge programs for children just before they enter kindergarten, transitional activities for children and families, intentional articulation of teaching strategies and practices between the preschool and elementary schools and conducting observations, classroom visits and language proficiency assessments, and facilitating outreach from elementary schools to preschool families. In addition to providing joint professional development opportunities to preschool and kindergarten teachers, SEAL works closely with school site administrators to build their capacity to both lead and support SEAL's effective practices. To this end, administrators are integrated into the planning process and encouraged to delve into the research behind the SEAL model. Additionally, administrators are sent to key professional development conferences to stay current in the field of English Learner education and while there they participate in working dinners so that they can share what they are learning. Working collaboratively, SEAL staff and administrators jointly examine student data to discuss the language and cognitive growth of each child. Finally, SEAL staff conduct classroom walkthroughs with administrators to help them develop an understanding of and an eye for good practices.

The SEAL program focuses on assisting children with their academic language development and discourse skills in the early years of a child's schooling, closely aligning children's preschool and elementary school education. SEAL emphasizes the development of rich oral language while simultaneously developing English and a child's home language, the creation of text-rich environments, and the delivery of an enriching and fully thematic curriculum. **This approach has shown promising results for children's acquisition of English language skills. While 88 percent of SEAL participants scored Beginner or Early Intermediate on their California English Language Development Test (CELDTs) in kindergarten, only 46 percent scored Beginner or Early Intermediate by first grade in the 2010-11 school year.**²⁵

Recognizing the value of programs, like SEAL, that foster a smooth transition to kindergarten, the State of California has made significant strides to begin bridging early learning programs with transitional (TK) and traditional kindergarten (K) by developing a kindergarten readiness observation assessment. California's readiness assessment is a new tool school districts may use as a strategy to close the readiness gap and ensure all children thrive in their earliest years. It was created to provide TK and K teachers with a reliable measurement tool that will assist them in observing, documenting, and reflecting on the development, and progress of their students.

The instrument was created with four primary purposes: 1) as a psychometric measurement of children's development in key domains of school readiness (English Language Development, Self & Social Development, Self-regulation, Language and Literacy Development, and Mathematical Development); 2) to support the transition between preschool and TK, and between TK and K; 3) as a research tool; and 4) as a professional development resource for teachers. Additionally, California's readiness assessment is aligned with the Common Core Standards, the state's accountability system for elementary and secondary education, and the system that has been used for over ten years to monitor the development of children in the state's publicly funded early learning programs.

The kindergarten readiness assessment is an observation tool; it is not a "test" and was developed to be culturally sensitive and linguistically responsive to the diverse populations of students served. Teachers observe students as they participate in routine classroom activities and complete the instrument for each child within the first eight weeks of school. The readi-

ness assessment helps teachers evaluate children’s developmental progressions across multiple domains that are critical for success in school long after kindergarten.

Assessing children as they enter kindergarten is an important way to examine the effectiveness of early childhood programs, and identify the additional needs of specific children. To more effectively increase school readiness California must support a stronger connection between the early learning and K-12 worlds; promote the use of developmentally appropriate assessments of young children to improve instruction and programs; and implement a comprehensive, high-quality early learning and development system for all children, including English language learners, from birth to age five.

Promoting school attendance: Using family engagement programs to decrease chronic absence

Chronic absence, defined as missing 10 percent of a school year or more, is a problem that can begin in preschool,²⁶ and if it continues into kindergarten, can be extremely detrimental to scholastic achievement as a child proceeds through school.²⁷ One study found that chronically absent students in preschool and kindergarten were more often absent in later years and more likely to be retained.²⁸ As children progress through school, the accumulation of missed classroom instruction places children further behind thus making it increasingly difficult for them to meet grade-level standards.

Hedy Chang Director of Attendance Works Washington, DC

“Both being ready for school and showing up to school matters... We know that kids learn when they’re in a language rich environment. When you’re not in school you’re not getting that. When attendance is problematic it can also be found that kids are disengaging. It can slow down classroom instruction. Once kids miss more than 10 percent or more of school, it begins to affect their performance... Schools and communities can make a difference. We’ve seen initiatives lower chronic absence by partnering with communities and parents, making attendance a priority, setting targets, [and] looking from the parent and child’s perspective to understand why kids are missing school. We have to begin early, ideally in pre-k.”

Research shows that an effective way to improve chronic absence rates is to improve family and community involvement in their children’s education including educating them about the importance of attendance for their children’s success.²⁹ Recognized by the Harvard Family Research Project as one of the nation’s leading innovations in family engagement, Abriendo Puertas (Opening Doors) is a comprehensive training program that bridges the cultural gaps between the systems that support children’s learning and development. Created by and for Latino parents with young children, from birth to age five, Abriendo Puertas seeks to help parents become confident in their ability to support the health, education and well-being of their children. In 2009, approximately 8,000 parents in California participated in the program, as well as 22,000 families in 31 states. In California, the program has partnered with

over 200 family-serving organizations and trained 800 parent educators in 79 cities across the state, including San Francisco, Los Angeles, and Fresno. **The parent curriculum, taught in both English and Spanish, embraces effective practices in language development, early literacy, health, school attendance, parent leadership, and planning for family success.** The program provides engaging support for parents and families, focusing on the cultural values, strengths, and experiences of Latino families. It highlights the importance of encouraging regular attendance by providing parents with information on the link between school attendance and a student's academic performance. The program engages parents by advising them with feasible daily habits and practices that promote regular school attendance and therefore the capacity to help their children succeed academically.

Maria Ramos
Abriendo Puertas Participant
Los Angeles, CA

"I don't want my daughter to be one of the statistics we learned about. I'm glad I now understand what is happening in the schools, so many not graduating. I've made a commitment to be involved in her education and will talk to other parents about it too. As parents, what we do is of great consequences—I won't forget that."

While programs like Abriendo Puertas focuses on developing good attendance habits prior to entering primary education, elementary schools, like Franklin Elementary, have an important role to play in boosting students' school attendance. In fact, research indicates that English language learners with little to no attendance risk in kindergarten through first grade have higher test scores in second and third grade.³⁰ Recognizing that attendance habits form early, Franklin Elementary in the Oakland Unified School District takes a two-generation approach to combating chronic absence and boosting student achievement. Franklin Elementary emphasizes the importance of regular attendance and education attainment beginning in kindergarten. As a result, the school has both a chronic absence rate that is less than half the district average,³¹ and an Academic Performance Index score that is 100 points above the district average.³² Franklin Elementary's approach embraces linguistic diversity, builds a strong school community, and encourages family involvement. With two out of three (67 percent) students designated as English language learners,³³ the school offers bilingual classes for Spanish, Cantonese, and Vietnamese children, as well as English immersion classes for those students who speak other languages at home. Additionally, Franklin Elementary hires staff with the language skills needed to effectively communicate with parents by phone, at meetings, and at other school events. Additionally, the school provides parents with continuing education, including ESL (English as a Second Language) courses.

Providing summer enrichment opportunities: Using innovative partnerships to combat summer learning loss

Summer learning loss, in which students lose academic knowledge and skills that they have gained over the course of the school year, significantly undermines academic achievement and is an important contributor to the academic achievement gap. Low-income students lose two months of reading achievement during the summer, while the reading skills of higher-income

peers' improve as they participate in various enrichment activities.³⁴ These activities include trips to museums and libraries, family vacations to historical and cultural places, and a variety of summer camps and other programs.³⁵ Additionally, the impact of summer learning loss grows exponentially as children progress through school.³⁶ Two-thirds of the reading achievement gap in ninth grade attributed to summer learning loss during the elementary school years.³⁷

A promising model in California supports collaborative summer program partnerships across districts, community-based organizations (CBOs), cities, and local funders. Combining the resources and abilities of these entities can foster positive summer learning opportunities for children. The benefits of partnerships include lower program costs, a larger variety of programming options, and varied funding sources.³⁸

Summer Matters is a statewide initiative focused on expanding and improving summer learning programs across the state. The initiative encourages local partnerships between school districts, CBOs, and cities and builds summer learning programs on top of existing after school structures to provide an engaging and integrated mix of academic and enrichment activities to children. Support for program quality is provided by local summer experts using quality assessment tools from the National Summer Learning Association. One such Summer Matters program can be found in Whittier, CA, where roughly 30 percent of students are English language learners. With funding from the David and Lucile Packard Foundation, and technical support provided by Los Angeles County Office of Education, the Whittier City School District JumpStart Program provides hands-on summer learning opportunities to 700 students in nine elementary schools and two middle schools. The first round of summer slots is allotted to those students who have been nominated by their principals. However, once these students have been invited to join the program, the JumpStart Program is opened up to all students at the school. Credentialed teachers provide language arts, math, and science instruction while group leaders—members of the after-school workforce—teach art, music, and dance. A strong partnership with the public library provides books to students participating in the program and encourages family participation by offering family literacy activities.

Professional development and curriculum specialists are central to Whittier's model, in which all teachers are required to participate in thirty-five hours of professional development activities throughout the school year. The training reinforces strategies to create a fun camp-like atmosphere, which emphasizes hands-on learning and individualized instruction, and discourages the labeling of students or classroom groupings based upon ability.

Jenny Hernandez
JumpStart Academic Specialist
Whittier, CA

“To make these programs successful, you need to understand your English language learner population as it changes over time. Are they first generation? Second? What is their country of origin? While this information is important in helping you think through the needs of your student population, you need to look at students as individuals, seeing beyond their label as English Language learners. With great teachers who are willing to modify their lesson plans to support all students, a supportive district, and great partnership with the local library you can create a unique, fun and enriching summer learning experience for kids who may otherwise fall behind during the summer months.”

Through thematic and hands-on learning, the program offers all students opportunities to engage with teachers and peers and develop leadership skills. These experiences are particularly beneficial to students who are designated as English language learners. **During the school year large class sizes limit student participation and interaction. In contrast summer learning programs, like Whittier's, give English language learners additional opportunities to build their English fluency skills.** With smaller class sizes and a focus on projects and small group activities, Whittier's program allows students to engage teachers and group leaders in a less intimidating environment, collaborate frequently with other students, and try on leadership roles. Additionally, the Whittier program gives English language learners the CELDT during the summer, eliminating the need to pull them out of class for testing during the school year, providing school year teachers with timely information that can be used to gauge the additional support each student may need. Additionally, each student is assessed at the beginning and end of the program so that teachers and staff can see if and where students made improvements.

High-quality summer programs also provide children with access to low- and no-cost meals. Due to budget cuts that have eliminated most summer school programs, participation in federally-funded summer lunch programs has declined sharply,³⁹ with an estimated 20 percent of eligible California children accessing meals during the summer.⁴⁰ Research reveals that children who experience hunger are more likely to have physical problems, such as unintended weight loss, obesity, fatigue, and impaired cognitive abilities, such as lower attentiveness, which interfere with learning.⁴¹ Unsurprisingly, children who experience food insecurity typically have lower test scores, learn less during the school year,⁴² and repeat grades more frequently than their peers.⁴³

Tying it all together: Grade-level reading starts at birth

In order to ensure that all children, including English language learners, achieve high levels of academic achievement in public schools, policymakers must recognize that learning starts at birth and must increase access to linguistically and culturally appropriate services early in life, as children transition into school, and during the summer.

Home visitation programs are important building blocks that instill good parenting practices and nurturing environments for infants and young children, and set the foundation for successful early learning. High-quality early education programs, such as Early Head Start and the SEAL model, prepare young children, particularly English language learners, to enter kindergarten by helping them develop the skills and language they need to enter school ready to learn.

Even the best preschool programs, schools, and summer programs cannot help students who aren't in attendance. Engaging children and families to promote school attendance and eliminate chronic absence is critical to ensuring that all third graders are reading at grade-level.

Comprehensive summer programs prevent the loss of knowledge acquired during the school year. Students who participate are less likely to fall behind their peers in academic achievement. Moreover, innovative partnerships between school districts and community based organizations can reduce costs and enhance academic curricula by providing enriching learning opportunities not found during the traditional school year.

While the programs highlighted in this paper are currently fragmented, viewing them through a birth to third grade framework brings into focus the ways in which these programs build off

of one another to provide children with a robust set of opportunities and supports which foster children's successful transition from learning to read to reading to learn. Taking a birth to third grade approach in establishing programs similar to the models highlighted here can help states, and the nation, ensure that all children are reaching academic milestones and setting the course to eventually become our future scientists, innovators, and community and business leaders.

Learn More About the Organizations Presented in this Paper

HABLA

HABLA's goal is to provide parent coaching and home visits to increase the school readiness of disadvantaged Latino children aged two-to-four years. Its strategy is to unite faculty and students at UCI with members of the Latino community in Orange County, the Santa Ana Unified School System, Project Access, the Corbin Family Resource Center, AmeriCorps/VISTA and the Parent Child Home Program (PCHP).

<http://www.socsci.uci.edu/habla/>

Pediatric Therapy Network (PTN)

Pediatric Therapy Network (PTN) was founded in 1996 by a handful of therapists, parents and volunteers who envisioned an organization that would provide the community with high quality therapy, research and education as it relates to fostering the best possible outcomes for children with special needs. PTN's mission statement is **“leading the way in helping children, families and communities reach full capabilities through innovative therapy, education and research programs.”**

www.pediatrictherapynetwork.org/

Sobrato Early Academic Language, Sobrato Family Foundation

The Sobrato Family Foundation is dedicated to helping create and sustain a vibrant and healthy community, where all Silicon Valley residents have equal opportunity to live, work and be enriched. The Sobrato Early Academic Language pilot (SEAL) initiative is designed as a comprehensive and developmentally appropriate model of intensive, enriched language and literacy education designed for English language learners in public schools, starting in preschool.

<http://www.sobrato.org/>

Franklin Elementary

Franklin Elementary School provides a school environment where students, parents and teachers come together in the pursuit of academic achievement. Students, staff, parents and our school community are valued as we work together to provide an encouraging environment for life long learning.

<http://www.franklintigers.org/>

Summer Matters, Partnership for Children and Youth

Summer Matters is a statewide initiative to expand and improve summer-learning opportunities for low-income children across California. This work is based on a vision of quality summer learning that seeks to reduce the achievement gap by inspiring young people's learning through fun, experiential and relevant programming that includes a mix of academics and enrichment. The summer strategy builds on California's statewide system of more than 4,000 publicly-funded after-school programs.

<http://summermatters2you.net/>

Credits

This paper reflects the collective effort of the entire organization.

Writing, research, and data analysis conducted by: Jessica Mindnich, Ph.D., Derya Arac, and Elizabeth Cavagnaro with support from Melina Sanchez, Giannina Perez, Marguerite Ries, Samantha Tran, Brad Strong, and Louella Ilog.

Editorial assistance provided by: Ted Lempert, Kristi Schutjer-Mance, Brian Kennedy, and Michael Altamirano.

We would like to thank the following for their advice and counsel on the research contained within this paper:

Nora Benavides, Nurse-Family Partnership; Loretta Burns, Santa Clara County Partnership for School Readiness, **Katie Brackenridge, Partnership for Children and Youth**; Hedy Chang, Attendance Works; Laura Escobedo, Los Angeles County Office of Child Care; Araceli Espinoza and Terri Nishimura, Pediatric Therapy Network; Sandra Gutierrez, Abriendo Puertas; Jenny Hernandez, Whittier City School District; Jessica Mihaly, Silicon Valley Community Foundation; Laurie Olsen, The Sobrato Family Foundation; Judith Tang, Wendel Rosen Black & Dean LLP

This paper was funded, in part, by The Annie E. Casey Foundation. We thank the foundation for its support but acknowledge that the findings and conclusions presented in this paper are those of the authors alone and do not necessarily reflect the opinions of the Foundation.

Endnotes

1. James J. Heckman and Dimitriy V. Masterov, *The Productivity Argument for Investing in Young Children*, October 2004; High/Scope Educational Research Foundation, *The High/Scope Perry Preschool Study Through Age 40*, 2004.
2. "School Readiness Report 2009," Brown County United Way. 2009; 28. <http://www.browncountyunit-edway.org/files/bcuw-school-readiness-report-nov-09.pdf> May 17, 2012.
3. The Annie E. Casey Foundation, KIDS COUNT "Early Warning: Why Reading by the End of 3rd Grade Matters" The Annie E. Casey Foundation. 2010; 9. http://www.aecf.org/-/media/Pubs/Initiatives/KIDS%20COUNT/123/2010KCSpecReport/AEC_report_color_highres.pdf
4. Ibid. 12.
5. U.S. Department of Education, Institute of Educational Sciences, National Center for Education Statistics. National Assessment of Progress (NAEP), various years, Reading Assessments. <http://nces.ed.gov/nationsreportcard/pdf/stt2011/2012454CA4.pdf> June 20, 2012
6. Children Now analysis of data from The Annie E. Casey Foundation, *KIDS COUNT Data Center*, Data Across States, Rankings, Maps, or Trends by Topic, "4th graders who scored below proficient in reading by English language learner status" (Percent) 2011. <http://datacenter.kidscount.org/data/acrossstates/Rankings.aspx?ind=5197> February 8, 2012.
7. Children Now analysis of data from the California Department of Education, Educational Demographics Unit, California Longitudinal Pupil Achievement Data System (CALPADS), "Cohort Outcome Data for the Class of 2009-10" <http://dq.cde.ca.gov/dataquest/>. February 8, 2012.
8. U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, *Common Core Data Build a Table*, "Local Education Agency Universe Survey", 2009-10, "State Nonfiscal Survey of Public Elementary/Secondary Education" 2009-10.
9. Hans P. Johnson and Deborah Reed, "Can California Import Enough College Graduates?" Public Policy Institute of California. Vol. 4. No. 4. 2007; 12.
10. Children Now analysis of data from University of California, Los Angeles, Center for Health Policy Research, *AskCHIS*, "Language spoken at home," ages 0 - 4, Entire State of California, California Health Interview Survey 2009.
11. Children Now analysis of data from the California Department of Education, Educational Demographics Unit. Estimate based on percentage of kindergartners that are designated as English Language Learners upon school entry from "Statewide English Learners by Language and Grade 2010-11," and "Enrollment by Grade for 2010-11".

12. Preschool California. "Closing the Achievement Gap for Dual Language Learners: How Early Learning Programs can Support English Language Development." 2010, 3.
13. California Department of Public Health "Definition of Home Visiting." <http://www.cdph.ca.gov/programs/mcah/Documents/MO-HVP-Definition.pdf> June 4, 2012.
14. For more information on Nurse-Family Partnership in California, please visit: <http://www.nursefamilypartnership.org/locations/California>
15. Margaret O'Brien-Strain, and Jennifer Gera, "Home Visitation Programs in Orange County." The SPHERE Institute. 2001; 22.
16. HABLA. "Who We Are" <http://www.socsci.uci.edu/habla/aboutus.html>
17. Virginia Mann. et al. "A Spanish Language and Literacy Intervention to Promote School Readiness in the Homes of Disadvantaged Preschool Children". University of California, Irvine, 2007; 25.
18. "The National Evaluation of Early Head Start: Early Head Start Works." Zero to Three Policy Center. 2005; 1.
19. Betty Hart and Todd Risley, "The Early Catastrophe: The 30 Million Word Gap by Age 3," *American Educator*, 2003; 4.
20. Ibid, 3.
21. U.S. Department of Health and Human Services, Administration for Children and Families. "Preliminary Findings from the Early Head Start Prekindergarten Follow-Up". 2006; 1.
22. Samuel Berlinski. et al. "Giving Children a Better Start: Pre-School Attendance and School-Age Profiles". The Institute for Fiscal Studies. 2007; 24.
23. Lynn A. Karoly et al. "Prepared to Learn: The Nature and Quality of Early Care and Education for Pre-school-Age Children in California." RAND Corporation. 2008; xxiii.
24. SEAL Powerful Language Learning. Sobrato Family Foundation. http://www.sccoc.org/depts/ell/bcn/2012_May/May%2017%20Presentations/3_The%20Sobrato%20Early%20Academic%20Language%20Program/3B_SEAL%20Power%20Language%20Brochure.pdf
25. Kathryn Lindholm-Leary, "SEAL Family Information and Child Outcomes," Sobrato Early Academic Language. 2012.
26. Hedy Chang, and Mariajose Romero, "Present, Engaged, and Accounted For: The Critical Importance of Addressing Chronic Absence in the Early Grades," National Center for Children in Poverty. 2008; 3.
27. Faith Connolly and Linda S. Olson, "Early Elementary Performance and Attendance in Baltimore City Schools' Pre-Kindergarten and Kindergarten," Baltimore Education Research Consortium. 2012; v.
28. 28 Ibid. 10.
29. Joyce L. Epstein and Steven B. Sheldon. "Present and Accounted For: Improving Student Attendance through Family and Community Involvement," *The Journal of Educational Research*. Vol. 95, No.5. 2002; 315. <http://www.jstor.org/discover/10.2307/2754239?uid=3739560>. June 1, 2012.
30. Applied Survey Research. "Attendance in Early Elementary Grades: Associations with Student Characteristics, School Readiness, and Third Grade Outcomes," 2011; 13.
31. Attendance Works. "Franklin Elementary," <<http://www.attendanceworks.org/what-works/oakland/franklin-elementary/>> May 24, 2012.
32. Children Now analysis of data from the California Department of Education Educational Demographics Unit. Comparison of the Academic Performance Index (API) Report for Franklin Elementary. . 2011 and Academic Performance Index (API) Report for Oakland Unified. 2011.
33. Attendance Works. "Franklin Elementary," <<http://www.attendanceworks.org/what-works/oakland/franklin-elementary/>> May 24, 2012.
34. National Summer Learning Association. "Investments in Summer Learning: A Scan of Public Funding for Summer Programming in California," 2009; 3. http://www.summerlearning.org/resource/resmgr/publications/2008_ca_resource_scan.pdf April 6, 2012.
35. Afterschool Alliance "America After 3pm. Special Report on Summer: Missed Opportunities, Unmet Demand," 2010; 2. http://www.afterschoolalliance.org/documents/Special_Report_on_Summer_052510.pdf. April 6, 2012.
36. Jennifer S. McCombs et al. "Making Summer County: How Summer Programs Can Boost Children's Learning," RAND Corporation. 2011; 24.
37. Karl Alexander et al. "Lasting Consequences of the Summer Learning Gap," *American Sociological Review*, 2007; 171.
38. McCombs et al.,73.
39. Matthew Sharp and Tia Shimada, "School's Out... Who Ate? A Report on Summer Nutrition in California," California Food Policy Advocates. 2011;2.
40. Ibid, 3.
41. Patrick H. Casey et al. "Children in Food-Insufficient, Low-Income Families," Prevalence, Health, and Nutrition Status. *Pediatrics & Adolescent Medicine*. Vol 155. 2001; 508.
42. Kyle Jemison and Joshua Winicki, "Food Insecurity and Hunger in the Kindergarten Classroom: It's Effect on Learning and Growth," *Contemporary Economic Policy*. 2003; 151.
43. Howard Taras, "Nutrition and student performance at school," *Journal of School Health*. Vol 75. Iss. 6. 2005; 207.



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

BACK ON TRACK THROUGH COLLEGE IN THE RIO GRANDE VALLEY:

From Dropout Recovery to
Postsecondary Success

by

Lili Allen

Jobs for the Future

Low-income and minority students are rapidly becoming the majority population in public schools across the United States. At the same time, the economy demands that people get more education than ever to succeed in family-sustaining careers. Yet the dropout rate is at crisis proportions among African Americans and Latinos: each year, over 1.2 million mostly low-income and minority students leave high school without a diploma.¹ African-American and Latino/a students drop out of high school at twice the rate of their white peers.² For the United States to once again become first in the world in the postsecondary completion and credentials held by its young adults, the needs of this large and growing group must be addressed and their vast potential must be tapped.

The Rio Grande Valley is a microcosm of this population trend: nearly 90% percent of the population is Hispanic³, and one-third is considered economically disadvantaged.⁴ So it is fitting that the valley is the site of a groundbreaking model for dropout recovery – one that not only graduates former dropouts but transitions them to college – and that model is spreading throughout the region. Launched in 2007 under the leadership of Dr. Daniel King in Pharr-San Juan-Alamo Independent School District, the College, Career, and Technology Academy has graduated almost 1000 former dropouts and off-track youth in five years, a significant percentage of whom attained postsecondary credits before graduating. Through this model, college success is within reach for students who once left school without a diploma or were at high risk of not graduating. And this school is being replicated across the region, as other school districts recognize the promise and potential of recovering this population.

A Groundbreaking Design for Recovering Dropouts

The College, Career, and Technology Academy (CCTA) engages young people age 18-26 who have either dropped out of school or who have reached the end of their senior year lacking high school credits or having failed the state's high-stakes exit exam. CCTA students – many of whom have been out of school for years – take classes to complete their high school credit requirements and prepare for the state tests; when they are ready, they seamlessly transition into college courses at nearby South Texas College while finishing up their high school requirements.

CCTA exemplifies JFF's new school design for off-track and out-of-school youth: Back on Track Through College. This model is based on Jobs for the Future's early college design, through which students take college courses as part of their high school experience. JFF has modified that design for older youth who are significantly behind in skills and credits. Students progress through three phases: Enriched Preparation, which offers high-quality college-ready instruction with academic and social supports; Postsecondary Bridging, which builds college-ready skills and provides informed transition counseling; and First Year Supports, which offers supports in the first year of postsecondary to ensure persistence and success. The Back on Track Through College design makes college achievable for youth who never envisioned college in their future.

The school was launched when Dr. King arrived at Pharr-San Juan-Alamo as its new superintendent and decided that his district reform strategy would start in the most unlikely of places - with dropouts. Dr. King has a keen eye for state policy opportunities and noted new Texas legislation enabling school districts to recover dropouts up to age 26 – sparking the idea for a school that would do more than just bring them back. Facing a four-year graduation rate of only 62%, Dr. King approached Dr. Shirley Reed of South Texas College with the idea of launching a school for dropouts that would transition them directly to college.

CCTA builds a college-going culture starting at recruitment -- through, for example, billboards throughout the community that advertise CCTA as a place for young people who didn't finish high school to "start college today." At intake, students not only chart their path to graduation but also register for South Texas College and select the dual enrollment courses they will take once they are eligible. Once enrolled, their schedules includes both on-line credit recovery and academically rigorous and engaging instruction, utilizing strategies designed to accelerate learning among underperforming students so they can tackle and master college material. Teachers use an approach to instruction called the Common Instructional Framework, which underpins all instruction in the district; Jobs for the Future and Educate Texas⁵ have led the coaching for this college-ready approach since 2009. Students needing additional reading remediation also participate in smaller groups focused intensively on literacy.

CCTA utilizes Jobs for the Future's Common Instructional Framework, a set of six instructional strategies used across content areas that create classrooms that allow for powerful learning and powerful teaching and form the basis of a coherent college preparatory curriculum. They give all students of all skill levels access to the complex information needed to meet state and college-ready standards. These instructional strategies succeed because they engage all students as active participants in learning. The Common Instructional Framework strategies - Collaborative Group Work, Writing to Learn, Literacy Circles, Scaffolding, Questioning, and Classroom Talk - are used in every classroom at CCTA, every day.

As Principal Linda Carrillo describes it, "From day one, students know that they will be active participants in their learning and that in every class they will be asked to write, to ask and be asked challenging questions, and to collaborate with their peers to understand challenging content. Students are empowered with learning strategies that provide them with the tools to succeed as they strive to earn their high school diploma and start college at the same time."

As soon as they pass the exit-level English Language Arts state test, CCTA students are eligible to enroll in a limited selection of South Texas College courses primarily, but not only, in Career and Technical Education. Their options have recently included medical terminology, welding, and business technology, among others. The courses are called "mini-mesters," because they start after the state exit tests are given and are compressed to five weeks. Students also enroll in a South Texas College-sponsored College Success class, given at CCTA, that prepares them for the academic behaviors and provides them with the "college knowledge" that these first-generation college goers are unlikely to get at home – how to read a syllabus, how to navigate the

college campus, how to manage a college course load. The college courses provide the hook that enables students to stay on track to graduation and postsecondary success while they complete their remaining credit and test requirements for graduation.

When I arrived at Pharr-San Juan-Alamo, I quickly learned that the district's dropout situation was out of control, and that no one was doing anything about it. The district had lost almost 500 dropouts in the 2005-06 school year, and the problem was getting worse each year. The annual dropout rate for PSJA was almost double the state average and climbing. This was clearly unacceptable.

I began to think about the hundreds of young people in the community who had almost made it and were "stuck" without a high school diploma. With this occurring annually, the cumulative number would be quite large. The likely impact on these young people and their families hit me hard, but the probable cumulative impact on a community with hundreds of dropouts each year, resulting in thousands of young adults never completing high school, had devastating potential.

Knowing that these older young people would be hard to convince to return to high school I began to think deeply about the type of school that would work for older students needing to complete high school. Past experience as a high school principal told me that students that only need exit exams are very challenging to work with. They typically do not want to sit in class every day, and almost none are willing to come in for more than an hour or two a day. Attendance is typically erratic. Many just want to be given study materials and show up for the day of the test. Since they have all their credits and just need to take a test to graduate, they don't see the need to be sitting in class every day. The likelihood that students who failed to pass these tests while enrolled full time in high school will do well with a study packet at home is minimal, and even less likely if they have been away from school for several years. Adding to this problem, it takes several weeks for the district to get the exit test results from the state. As soon as these students take their exit exams, they typically stop coming at all. Once the results come in, if they failed to pass, it is more challenging than ever to get them to return. They have already disengaged for several weeks. Some have even moved or found a new job. It is critical to keep them engaged with school until they have earned their diploma. Every time they disengage the challenge of bringing them back increases.

I realized that a dual enrollment recovery program that engages students in college courses and allowing them to earn college credit while still in high school would solve these problems. Partnering with South Texas College, we could engage these students in working towards certifications and/or associate degrees in fields with good wages and high demand, a dual enrollment dropout recovery program. This would be better than recruiting these students to return to high schools where they had previously failed, especially since at that time, these high schools were plagued with performance and discipline issues. We knew our outreach campaign would be effective with these young people: "Never finished high school? Start college today!"

—Dr. Daniel King, Pharr-San Juan-Alamo Independent School District Superintendent

In partnership with South Texas College, CCTA facilitates students' transition to the college and supports them as they begin their college career. A dedicated transition counselor, hired by the district with offices at both CCTA and the college, provides on-site support to students as they begin their college courses in earnest. She meets with them regularly, helps them navigate issues such as course selection and financial aid, organizes group events to maintain the CCTA camaraderie, and uses data to track the progress and outcomes of each cohort and inform the programming at CCTA.

In the fall of 2012, the college partnership will be strengthened even further. South Texas College is co-locating a teaching center (the first step to a branch campus) at the CCTA site. The campus will serve not only CCTA students but also regular community college students for a range of offerings. These will include criminal justice fields; college math, English and history; career/technical education fields such as welding; and a Police Academy – a three-way partnership among STC, the Pharr Police Department, and PSJA. This will enable CCTA students to take courses with college students more easily. Dr. King views this arrangement as the first step of a “reverse transplant” or conversion of the CCTA site into a true college campus.

Since its launch in 2007, CCTA has graduated almost a thousand students who were once likely relegated to unemployment or low-wage, low-skill employment. Moreover, at least half have graduated with college credits under their belts and the skills and the “college knowledge” so critical to postsecondary success. The school district has been transformed: Pharr-San Juan-Alamo graduated 1,885 students in 2010-11, up from only 966 four years earlier, just before Dr. King arrived.

Once the school was launched, in meetings with high school principals, I began to use the success of CCTA to challenge the thinking of our high school principals and their teams. I developed the concept of CCTA serving as a laboratory through which the other high schools in the district would better learn how to serve needy students. Why were these students not succeeding at their home schools? “They don’t care” was negated by the fact that they were persisting in school. “They can’t or won’t do the work” was countered by the success at CCTA. “They had to learn the hard way” didn’t stand with the dismal experience of all the non-completers prior to this disruptive innovation.

The only explanation that held up under scrutiny was that the design of this school was meeting the needs of these students in ways that the home campus had not. I then challenged the comprehensive high school teams to identify these factors and design prevention and “back-on-track” initiatives in their school that would be a better fit for students who struggle. They identified a number of factors, including support, personal attention, personalized acceleration, and focusing these students on meaningful college work, leading to in-demand high wage careers.

If CCTA could provide all of these things, successfully graduate these hard to serve students (many with college hours), and successfully transition them to continue with their college studies after high school, why couldn’t this be done with the majority of our high school students? This strategy has paid off, as the high schools have developed “back-on-track” solutions for their own struggling students.

Spread Throughout the Valley

Over the last several years, word of the success of CCTA and its approach has spread to other districts in the Valley and throughout Texas, and several have taken up Dr. King's innovation and launched dropout recovery schools and programs. Six communities are now participating in a replication network convened by Jobs for the Future. Brownsville, Donna, Edinburg, La Joya, La Villa, and San Benito – all districts with high low-income and Hispanic populations – have implemented CCTA-like dropout recovery schools and programs. Several have strong postsecondary bridging components with South Texas College including dual enrollment, and a few are just beginning to put the college bridge programming into place.

The goal of the network is to share successful strategies, provide informal mentorship for newer programs, and help all the districts push towards more effective postsecondary bridging and college success for their students. Since the model relies upon a partnership between the high school and a local college, the replication network includes not just other districts in the Valley but also two lead community colleges in the Valley: South Texas College and Texas State Technical College. This grouping has led to greater communication between the community colleges and the programs.

Replicators are incorporating core elements of the CCTA design while innovating on other aspects. For example, Donna ISD is using technology across all classrooms to help students develop skills needed to pass the state exit exams and succeed in college courses. Donna also provides students with college planners, and incorporates the use of AVID strategies such as Cornell Notes across all classrooms to ensure students have the organizational and study skills needed for postsecondary success. La Joya Independent School District co-locates its College and Career Center with the South Texas College (STC) campus, next to the high school; students mingle with college students every day and dual enrollment is even easier to arrange.

Edinburg Vision Academy maximizes the impact of the College Success Course and supports students in their first STC-based dual enrollment mini-mester by pairing the College Success course with the mini-mester. In this model, students begin the College Success course a week before their STC mini-mesters and start with the time management unit, which requires them to map out how they spend their time and to schedule their college class, homework, and study time before they begin their first real college class. Vision Academy teachers also teach note taking, using the textbook for the mini-mester course as the material from which the students take notes.

Even before they start their mini-mester, Vision Academy students are familiar with the course material and prepared to juggle the demands of a college course. During the course, the Vision Academy teacher attends the mini-mester course at STC with the students, sitting in the back and taking notes. Thus equipped, he uses the course content to teach students note-taking, and continues using mini-mester content as the practice material for the College Success Course, ensuring that her students experience success in their first on-campus college course.

Edinburg Vision Academy staff report that attendance and success rates for students in this paired model are extremely high -- illustrating the payoff of making postsecondary success manageable and within reach for students who formerly struggled with academics.

Across the replication sites, 925 students are participating in dropout recovery programming that transitions them to college success. School leaders are sharing strategies for effective intake, college-ready instruction, student supports, postsecondary and career counseling, and

postsecondary bridging. These efforts are paying off: hundreds of students are participating in dual enrollment through these programs.

Increasing Effectiveness, Efficiencies, and Innovation

Key lessons are emerging about the benefits of a regional replication network. School leaders often call each other to strategize about particular aspects of their programming – for example, to share strategies around improving attendance or supporting students in dual enrollment. They are also arranging more formal collaborations. For example, after the replication site leaders had the opportunity meet with each other and share strategies, they realized that they could approach their dual enrollment courses more efficiently by collaborating to enroll their students together in dual enrollment courses at South Texas College. While only a handful of students at an individual dropout recovery school may have students interested in a particular postsecondary course, across schools the number may add up to enough for a college class dedicated to dropout recovery students. Through this collaboration, individual sites save money on the courses, and students have more courses to choose from. At the same time, students begin to develop an expanded network of peers that can help them when they matriculate.

The dropout recovery schools have also begun to explore the possibility of creating an on-line referral mechanism so that they can refer students to each other. Given the high mobility of students in the Valley districts, this network could prove especially useful.

Individual schools and programs in replication network communities are also adopting aspects of the model. San Benito's Gateway Academy has initiated a partnership with nearby Texas State Technical College, having learned from other sites and from South Texas College about how to shape agreements for the College Success course. Their first step for this partnership is for TSTC to train Gateway Teachers to teach the College Success course.

Across all the sites, there is growing focus on college-ready instructional strategies rather than test-prep or solely on-line credit recovery. CCTA has hosted visits from replicators so that they could see the use of the strategies across content areas and the impact on student learning, and several are piloting the use of the strategies in their own sites. In San Benito, the shift occurred as the staff prepared to offer a College Success curriculum; they realized that their individualized model of instruction was not providing the students with the skills they would need in college.

Other schools are starting to consider ways to replicate the CCTA approach to supporting students as they transition to postsecondary. Several sites are instituting follow-up services by being more explicit with their students that they can return once they have matriculated for academic help. Keeping connections with the students enables the sites to provide them with ad hoc counseling around courses and financial aid as a form of postsecondary bridging while not having adequate funding to have an actual transition counselor.

Recognizing the potential of this model, in 2011 the Texas state legislature passed a bill (S.B. 975) that enables community colleges to launch CCTA-like programs on their campuses, in partnership with districts with a dropout rate higher than 15%. Community colleges that operate a dropout recovery program can receive from the partnering school district a negotiated amount out of the per-pupil for participating students. The legislation stipulates that students enrolled in the program receive a diploma from their school district, along with academic support and transition counseling that will ensure that they prepare for a successful transition

to college and to a career. This college-based model is ideal for districts that are too small to mount their own CCTA-like campus.

Spreading Lessons Nationally: Developing CCTA as a Demonstration Site

Recognizing the potential to spread the Back on Track Through College model not only in Texas but nationally, Jobs for the Future is partnering with CCTA to develop the school as a demonstration site for college-ready instruction that succeeds with this population. In the fall of 2012, CCTA will host “residencies” for visiting educators, enabling visitors to participate in instructional rounds so that they can see the literacy-rich, engaging instructional strategies in use across all content areas. JFF will assist visiting schools, districts, national youth-serving networks, and community colleges to learn from this model and will assist them adapt the design so that their own formerly disengaged students are on a path to postsecondary success.

CCTA has already been utilizing instructional rounds to build its own teaching staff’s capacity to use the instructional strategies: teachers visit each others’ classrooms regularly to observe and provide feedback on each others’ instruction, using a carefully designed protocol that prompts reflection on practice. Teachers are now prepared to invite visitors into their classrooms to participate as rounds observers.

The residencies will also include opportunities to learn about the college partnership and how the model organizes and supports bridging into postsecondary and follow-up support to graduates in college. Lessons that CCTA and South Texas College staff will share include: developing partnership agreements that start at the top – between a superintendent and a college president; leveraging state policy to support the partnership; identifying clear expectations regarding roles and responsibilities of each partner; and allocating staff time both to accomplish the specific goals of the partnership and for regular check-in’s for smooth implementation.

Audiences will be educators within Texas and beyond seeking to improve outcomes for this large and growing population. Given the imperative that all young people not only graduate from high school but also transition into postsecondary education, Dr. King and JFF are committed to sharing this model so that others can learn about the potential for these youth to change their trajectory and bridge directly into college, given the right supports and opportunities.

JFF and PSJA are partnering to develop PSJA’s CCTA into a high quality demonstration site to support the spread of this highly successful model across the United States. Visitors from all across the country will be able to learn about the operational and instructional aspects of the model in detail. While CCTA has had many visitors over the years, some leave inspired to start a similar program, but never get it going. Others focus only on the high school diploma. Feedback indicates that many of these districts need more support and/or follow up to get a program up and running. It has become obvious that there is a great need for this “back-on-track through college” approach throughout the country. To support replication and scaling, the development of CCTA into a very high quality demonstration site capable of supporting many visitors with quality assistance is critical.

Endnotes

1. Amos, Jason. 2008. *Dropouts, Diplomas and Dollars: US High Schools and the National Economy*. http://www.all4ed.org/publication_material/reports
2. Center for Labor Market Studies (2009). *Left Behind in America: The Nation's Dropout Crisis*. http://iris.lib.neu.edu/clms_pub/21/
3. US. Census Bureau, Retrieved June 8, 2012 from: State and County Quick Facts, 2010 <http://quickfacts.census.gov/qfd/states/48/48427.html>
4. Retrieved June 8, 2012 from: State and County Quick Facts, 2010 <http://quickfacts.census.gov/qfd/states/48/48427.html>)
5. Educate Texas is a public-private initiative of the Communities Foundation of Texas working to advance the postsecondary readiness of low-income students across the state.

FAMILY ECONOMICS & HOUSING



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY



FIRST FOCUS
MAKING CHILDREN & FAMILIES THE PRIORITY

CHILDREN, SOUTHWESTERN STATES, AND THE FEDERALISM PROBLEM

by

Thomas L. Gais
Rockefeller Institute of Government

The American Southwest is a rich and diverse region. But it is also a region where, according to several measures of child well-being, children struggle more than in most other parts of the country. It is a region where the economy has undergone enormous dislocations in recent years. And it is a region where many of its states offer public programs—including those aimed at improving children’s lives—that are typically less extensive and well-funded than elsewhere.

As an increasing proportion of American children live in the Southwest, a trend unlikely to end soon, any efforts to use public programs to improve child well-being in the U.S. confront a tough federalism issue. How can children in these states be supported with well-financed, effective public programs in order to address the poor child outcomes found in these states? This paper sketches the problem and considers some options. It is clear, however, that the problem is a difficult one and one only made harder by recent events.

Changes in population

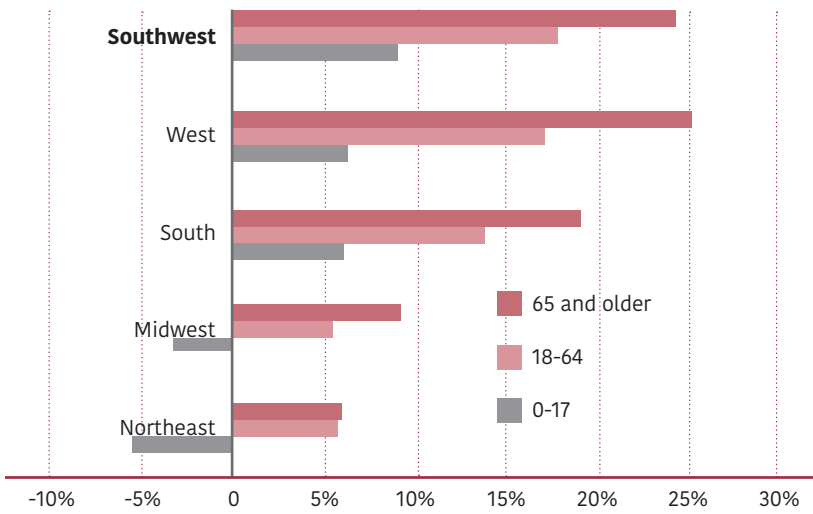
The 2010 U.S. Census confirmed the continued shift in population from the Northeast and Midwest to the South and West. Fully 84.4 percent of U.S. population growth between 2000 and 2010 occurred in these latter regions, an even higher share of growth than the already large 77.0 percent between 1990 and 2000. Growth rates of the seven states in the Southwestern quadrant of the country were particularly striking, as Nevada, Arizona, Utah, and Texas were four of the five fastest growing states in the U.S. between 2000 and 2010 (Mackun and Wilson 2012).

The greatest change, however, appears when age is considered. Between 2000 and 2010, the number of children declined in the Northeast and Midwest by 1.3 million, while the number of children in the South and West grew by 3.1 million. In 2010, 61.6 percent of children in the U.S. lived in the South and West—and about half of them, 28.5 percent of all U.S. children, lived in the seven Southwestern states of Texas, New Mexico, Arizona, Nevada, California, Utah, and Colorado.

The drivers underlying these changes vary from state to state. “Natural” increase (births over deaths) was the major contributor to the increase in population in California; Arizona’s increase was driven primarily by domestic migration; a large share of New Mexico’s growth came from international migration. Whatever the causes, the critical point is that these changes make clear that the well-being of children in the U.S. is increasingly intertwined with economic, social, civic, and governmental circumstances found in this part of the country.

Another important population change in the Southwest has been the large growth in the number of elderly residents. As Figure 1 shows, the number of elderly people living in Southwestern states grew by 24.0 percent between 2000 and 2010, only slightly less than the growth rate in other western states (24.9 percent). Added together, the number of children and elderly people in the Southwest increased by 12.8 percent during this decade—the highest rate among the five regions. One implication of these changes is that some Southwestern states have very high “age dependency ratios,” that is, a large number of children and elderly compared to the number of residents of working age. High age dependency ratios mean that there are fewer people earning income and paying taxes to help support public benefits for those not in the labor market, particularly children and elderly people. Utah, Arizona, and New Mexico all are among the top 10 states in “age dependency,” while Texas is among the top third (Howden and Meyer 2011:14).

Figure 1. Percent changes in population, by age and region, 2000-2010



Source: U.S. Census Bureau.

Shifts in the location of public needs and recipients

As one would expect given these demographic shifts, there have been changes in the distribution of persons receiving or in need of public benefits. More of the nation's school children are living in the Southwest. Table 1 shows regional changes in the number of school enrollees between 2000 and 2010. The Southwest led all other regions with an increase of 1.6 million school enrollees, a 12.6 percent increase. The South and the other western states grew at about half that rate, while the number of school enrollees fell in the Midwest and Northeast.

Table 1. Change in school enrollees, by region, 2000-2010

Region	Percent change	Numerical change (thousands)
Southwest	12.6%	1,578
South	7.5%	960
Other West	5.1%	133
Midwest	-0.5%	-54
Northeast	-1.3%	-104

Source: National Center for Education Statistics.

Another indicator of the changing distribution of public needs in the U.S. is the location of poverty. A growing share of children living in poor households resides in the Southwest. Child poverty rates have long been high in the Southwest. But the Southwest and other western states have experienced larger increases in child poverty than elsewhere in the country. Table 2 shows

that the Southwest produced the greatest numerical growth in child poverty between 2007 and 2010, and its percentage change was second only to the other western states. By 2010, 30.5 percent of all poor children in the U.S. lived in the seven Southwestern states.

Table 2. Change in number of children living in poor households and in number of children without health insurance, after start of 2007 recession

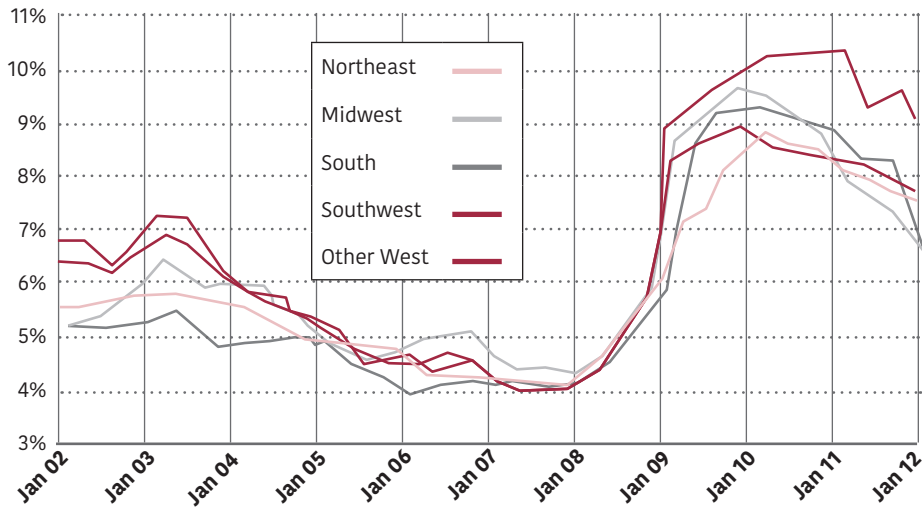
Region	% change in no. of children in poverty, 2007-2010	Change in number of poor children, 2007-2010	Percent change in no. of children without health insurance, 2007-2010	Change in number of children without health insurance, 2007-2010
Other West	29.8%	170	-10.3	-33
Southwest	21.5%	839	-8.7	-271
South	20.9%	838	-15.4	-393
Midwest	20.9%	556	-2.8	-32
Northeast	12.8%	247	-11.1	-113

Source: U.S. Census Bureau

Southwestern states also have a disproportionate share of the nation's children without health insurance. As Table 2 makes clear, the number of children without health insurance fell after 2007 in all regions. One reason may be the expansion of the Children's Health Insurance Program, which many states expanded during the last decade, and which was strengthened in federal legislation in 2009 and 2010. But whatever the reasons for the decline, the reduction in the number of children without health insurance was comparatively small in the Southwest, smaller than the reductions in the South, the Northeast, and other western states.

Furthermore, the Southwest has seen the largest increases in unemployment rates. Figure 2 shows the monthly unemployment rates for each of the major regions between 2002 and early 2012. Although just before the start of the recession in late 2007, the Southwest's unemployment rate was comparable to the other regions, by 2011-2012, the region's unemployment was over a full percentage point higher than found in any of the other regions. The percentage of children with an unemployed parent is generally correlated with—though typically higher than—the overall unemployment rate. As a result, in several Southwestern states—particularly in Nevada and California but also in Arizona, Colorado, and New Mexico—children were more likely than elsewhere to be living with an unemployed parent (Isaacs 2011).

Figure 2. Monthly unemployment rates by region, 2002-2012



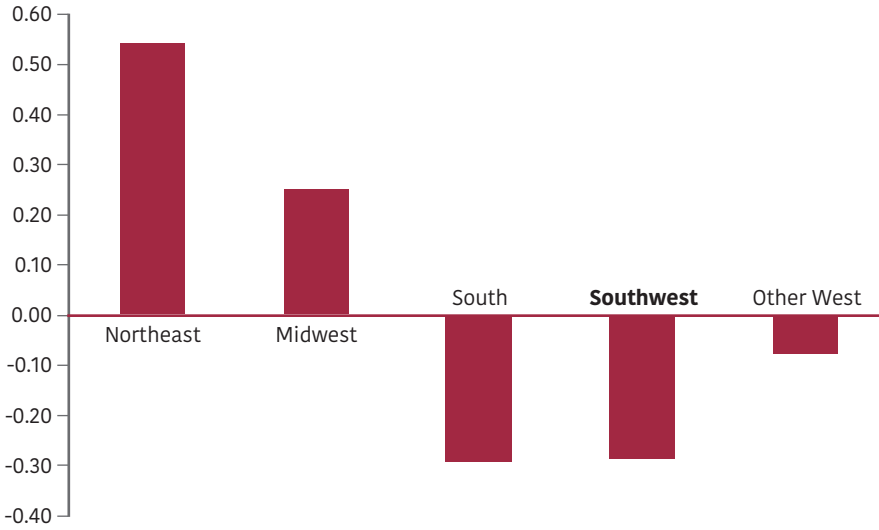
Source: U.S. Bureau of Labor Statistics.

Child Well-Being

A more general way of understanding how children fare in different regions is to rely on multi-faceted measures of child well-being. The Foundation for Child Development has developed such an index—the State Child and Youth Well-Being Index (CWI)—based on 25 indicators clustered into seven different domains of child well-being. The seven domains include family economic well-being; health; safe/risky behavior; educational attainment; community engagement; social relationships; and emotional/spiritual well-being (O’Hare 2012:3).

An overall child well-being index was then built from the six domains that were significantly correlated with each other—that is, all but the emotional/spiritual domain. Using this overall index, Figure 3 shows the average child well-being scores across states within the five major regions.

Figure 3. Child well-being scores; averages across states within regions



Source: First Focus.

The Southwest and the South are well below the other regions in this overall index. As the Foundation for Child Development has reported, some states in the Southwest are particularly low. New Mexico ranks last; Nevada and Arizona are ranked 46 and 45 respectively; and Texas is only slightly higher at 39. In sum, a fast-growing number of children are living in a region where child well-being indicators are considerably lower than in the rest of the country.

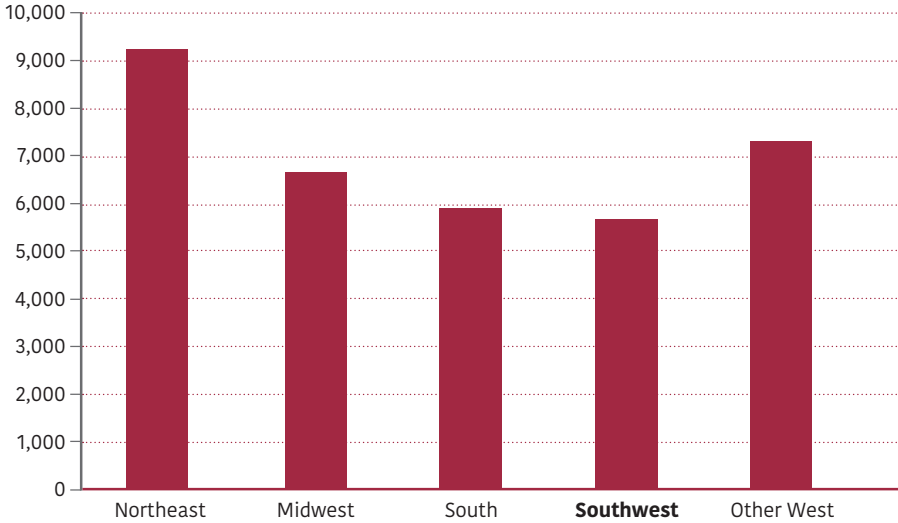
State Support for Child-Focused Programs

The increasing number of children and the problems they face in the Southwest might have a better chance at alleviation if states within the region strongly supported public programs designed to benefit children, such as social services, educational institutions, income support programs, and health programs. But states in this region tend not to support such programs at the same levels found in most other states. This becomes clear when we examine state spending across regions aimed at benefiting children. Using a data series constructed by the Rockefeller Institute—based on state contributions to 14 major programs—we can make comparisons in state spending across regions as well as over time (Rockefeller Institute undated).

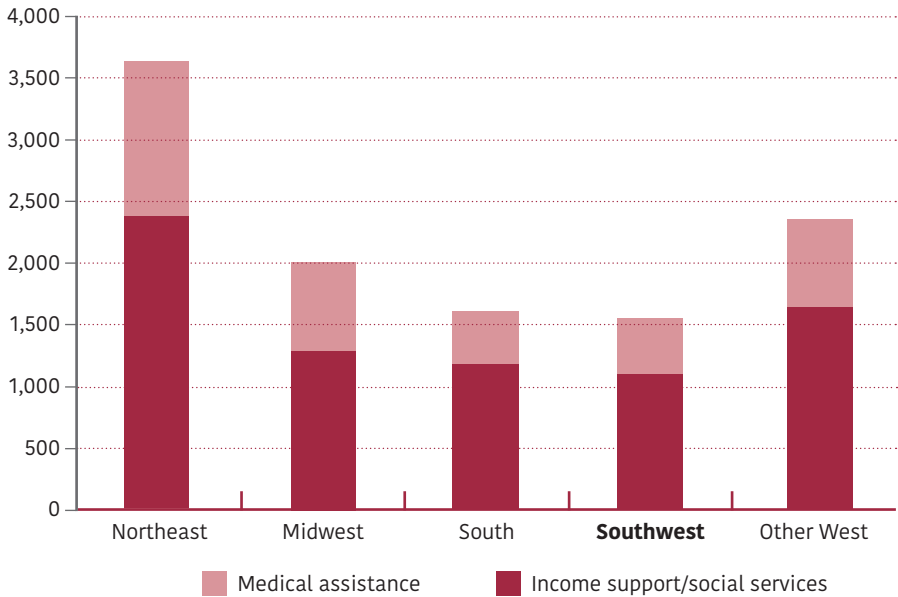
Figure 4 shows average state spending by region on three main types of programs for children for fiscal year 2008. The three types include 1) education (K-12) spending, which is here expressed as spending per child; 2) income support and social service programs (including child welfare, TANF¹, child care subsidies); and 3) medical assistance (largely Medicaid but also including CHIP²). These expenditures are made comparable across states by dividing them by rough measures of their target populations. In the case of education, where all children are eligible to enroll in public schools, state spending is divided by the number of children in the state. In the cases of income support, social services, and medical assistance programs—which tend to go to children in low-income families—the expenditures are divided by the number of children living in poor households during that year.

Figure 4. State spending on children’s programs; state averages within regions

State spending on K-12 education programs per child (2008)



State spending on medical assistance and income support/social service per poor child (2008)



Source: Rockefeller Institute of Government, based on various federal data sources.

As Figure 4 makes clear, Southwestern states give relatively little financial support to programs benefiting children when compared to other regions. Their spending on these programs closely tracks those in the South, but they are much lower than state expenditures for children’s

programs in the Northeast, other western states, and even the Midwest. A careful inspection of Figure 4 also shows that patterns of regional differences in expenditures vary across policy areas. The differences are smaller in education/K-12 expenditures, larger in the area of medical assistance, and greatest in income support/social service programs.³

What accounts for these differences in spending on child-focused programs? Many factors come into play, but in part these differences reflect fairly stable differences in fiscal capacity, that is, the resources available for taxation or other forms of revenue collection. For instance, with the exception of California and Utah, Southwest states have relatively low per capita personal incomes, a common measure of fiscal capacity. Yet it is also true that these states devote less of what fiscal capacity they have to state budgets. Southwest states commit a consistently smaller share of their Gross State Products to state taxes.

Based on other research, this tendency may be due to differences not only to state fiscal capacity but also to state political culture, tax and expenditure limits (such as constitutional restrictions on tax or spending increases per year, which are much more common among western and especially Southwestern states), urbanization, the age distribution, and other factors (Gais 2009; Gais, Billen, Boyd, & Dadayan 2007).

Implications for the U.S. Federal System

These trends pose a difficult question. How can the nation ensure the well-being of its children when a growing share of them are living in a region with comparatively weak fiscal capabilities; where child well-being is substantially lower than elsewhere; where economic and fiscal conditions have deteriorated disproportionately in recent years; and where states provide comparatively little financial support for major programs aimed at children?

One possible answer would be to strengthen federally funded programs that benefit children. In some respects, that has already happened, particularly among income support programs. Almost half (46.6 percent) of the people receiving benefits under the Supplemental Nutrition Assistance Program (or SNAP, formerly the Food Stamp Program) are children, and the proportions are generally greater in the Southwestern states (U.S. Food and Nutrition Service 2011:77). And SNAP played a large role in supporting low-income families with children during and after the Great Recession, along with other nutrition programs such as free or reduced-price school lunches and the Women, Infants, and Children (WIC) program (Gais, Boyd, & Dadayan 2012). Other major federally funded programs benefiting children include the Earned Income Tax Credit and the Child Tax Credit, both of which include refundable portions that provide financial support to families even when they owe no federal income taxes. Still other federal programs include federal education assistance, particularly Title I, Part A support for disadvantaged students; Supplemental Security Income (SSI) for disabled children; and Social Security, which provides benefits to children with disabilities, children with retired parents, or children upon the death of a parent (Isaacs, et al. 2012:20-21).

These federal benefits are critical sources of support for children, but they are also limited in size, coverage, and character. Most spending on children, particularly for K-12 education, still comes from state and local sources (Isaacs, et al. 2012:28). Also, much of the current federal assistance to states—such as Medicaid, the Children’s Health Insurance Program, Temporary Assistance for Needy Families, and child welfare programs—are not fully funded by the national

government but instead require state matching contributions or state maintenance of effort expenditures. The level of total spending under these joint federal/state programs thus typically depends on states' willingness to spend their own money on children's programs. As a result, the size and scope of these programs vary significantly across states. Southwest states, other than California, often spend at the low end, and thus get comparatively little federal funding.

Where federal assistance does not depend on state policies and decisions to match federal dollars with some of their own money—such as SNAP benefits or federal tax credits— the federal assistance for children has grown in less politically visible forms of support. Federal programs require national political coalitions to be enacted and sustained. Yet such coalitions are hard to come by. They are made easier when a program is partly carried along by major economic interests, as is the case of SNAP, school lunches, and other nutrition programs—all of which have gotten some political traction due to their inclusion in federal farm bills. Similarly, the most important tax credits for children, the Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) have been expanded and improved often in tandem with larger tax legislation.

What states do (or fail to do) thus matters for child well-being, and that fact underlines the *national* challenge posed by the Southwest. A top priority, then, of those who care about child well-being in the U.S. should not simply be to find “best practices” or the most effective programs for children. It is to find effective practices and programs that stand some chance of getting legislative and budgetary support in the states of the Southwest, and then ways in which the national government can effectively encourage state initiatives in this region to address child well-being.

How can this be done? First, it may help if the federal government promoted state experimentation and adoption of a greater range of programs, particularly those that appeal to a wider political range of citizens and policymakers. One interesting recent success along these lines was the TANF Emergency Contingency Fund (ECF), which was enacted as part of the 2009 federal stimulus bill, the American Recovery and Reinvestment Act. The ECF offered states additional TANF funds if states committed to spending the grant money on cash assistance, one-time “diversion” grants, or subsidized jobs—and if the state paid 20 percent of the costs⁴, with the federal government covering the remaining 80 percent.

One interesting result of the ECF was the way in which states sorted themselves regarding their favored options under the grant. The subsidized jobs option drew in states that had traditionally spent little on TANF programs, such as Mississippi, Georgia, and Kentucky. Among the Southwestern states, Texas, Utah, Colorado, and California operated subsidized employment programs (Pavetti, et al. 2011). Although the states could have applied their TANF grants to subsidized jobs in the past, aspects of the ECF, or the situation, encouraged states to establish or expand such programs even during challenging budgetary conditions. It may well be worth experimenting with supplemental grants around a set of defined options to see whether the states in the Southwest would respond positively to other forms of indirect supports for children and their families, such as subsidized jobs or other programs that directly engage and support employers.

It is still unclear how effective these subsidized job programs are for child well-being. Wage supplements and earned income tax credits (EITC) have better track records of evaluation. But though state-level EITCs have been adopted around the country, they have little presence in the Southwest, where only New Mexico has one. Obviously, an otherwise proven program can never be effective if it is never adopted or poorly funded. It is critical, then, to encourage an

expanded range of initiatives. The recent decision by U.S. Department of Health and Human Services to offer states waivers for innovative practices under the TANF program—in response to inquiries from the Southwestern states of Nevada and Utah—may be a promising instrument for such an expansion (Office of Family Assistance 2012).

Second, the problems of the Southwest suggest the need for new financing mechanisms for joint federal-state programs, mechanisms that offer greater responsiveness to changing needs and political conditions than block grants, but that do not incite the fiscal fears and political opposition generated by entitlement programs, which are often viewed as “uncontrollable expenditures.” The nominal level of funding for the TANF block grant and the distribution of grants among states have changed very little in the decade and a half since TANF was first implemented. As a result, all the recent population, economic, and political changes in the Southwestern states have had virtually no impact on the size of states’ block grants. And since the Southwest has seen such an increase in the number of poor and near-poor children, the adequacy of the grants have diminished considerably in that region (Lesley and Curran 2011). This erosion of the value of the TANF grant is particularly troublesome for those who care about child well-being, since measures of child well-being have been found to be correlated with the size of the federal TANF grant to states (O’Hare 2012).

There is no prospect that any Congress in the foreseeable future will re-establish an entitlement to replace the TANF program, even though an entitlement would adjust reimbursements to states based on the number of persons who qualify for benefits. In fact, the Congress eliminated the only significant corrective mechanism for the mismatch between state population changes and federal TANF funding when it let the TANF Supplemental Grant lapse in 2011. Supplemental Grants went to 17 states that offered historically low welfare benefits and those with large population increases; recipient states in 2011 included all the Southwestern states except California.

There were flaws in the Supplemental Grants. They did not go to states that expressed any specific interest in using them for child-related goals or any other particular objectives, for that matter. Rather than calling for their restitution, perhaps hybrid forms of federal assistance should be developed: forms that offer some responsiveness to changing population and poverty conditions, yet that respond to a demonstrated state interest in using the funds for a particular purpose (such as child poverty reduction), one for which the federal government may hold the state accountable.

For instance, an incremental sequence of federal awards could be established, a sequence that could lead to a larger block grant for a state with a small block grant relative to their number of low-income children. Perhaps, for instance, a small fixed-year (say, 3-5 year) grant could be offered by the federal government to such states if and when they propose additional (in our context, child-related) projects for their TANF programs, using a generous matching grant formula (such as the 80 percent federal contribution under the ECF). If the state programs meet or exceed performance criteria or goals regarding impacts during the initial grant—criteria or goals negotiated by the federal and state governments before the grant was awarded—the additional award could be extended and be eligible for expansion. If the program or programs continue to show effectiveness, the additional funding might eventually be incorporated in the basic TANF grant, and the state’s own required financial contribution may be increased as well.

There are, to be sure, many possibilities. But the details are less important than the idea of working out an iterative, responsive, incremental process for adjusting federal and state investments in critical programs affecting children. Much of the process would be guided by the

federal executive branch, but the Congress could exert control and oversight in several ways, such as setting the total amount available for additional grants, providing general guidelines for eligible programs, and requiring performance reports. There is, of course, no guarantee that states in the Southwest would respond to such a process. Yet it would at least make it feasible for federal grants to be adjusted to new demographic, economic, and political circumstances—when there is little chance that the Congress can resolve these distributional issues on its own.

Third, the challenge posed by the Southwest highlights the more general need to address the problems of state fiscal systems. State revenue declines after the 2007-08 recession have been sharper and more extended than any other since the Great Depression. Those declines, however, are only a part of the fiscal problems that state and local governments now face and will confront well into the future. State revenues are becoming much more volatile and uncertain. Many long-term liabilities like unfunded public employee pensions and health benefits will pressure state and local budgets for years. The tax base for sales taxes has shrunk as more and more consumer spending goes to services, which are not taxed as broadly as goods. Constitutional and other institutional restrictions on state and local taxes and expenditures have spread—and are particularly common and strong in the Southwest. Medicaid costs have grown enormously, pushed up largely by general (and heretofore, not very controllable) increases in health care costs. And declines in housing prices have depressed local property tax collections (State Budget Crisis Task Force 2012; Dadayan 2012).

These developments limit financial resources for education, health, social services, and many other state and locally funded programs targeting child well-being. State support for social welfare programs (not just those targeting children), drawing from their own taxes and other revenue sources, has been declining in all states since 2005 in real per poor person terms (Gais 2009), and the Southwestern states now show the lowest average state expenditures.⁵

Alice Rivlin has recognized these problems and is proposing major reforms in the U.S. system of federalism, such as sorting out of functions between the national and state governments, and a shared (federal and state) tax system, such as a “broad-based national consumption tax shared with the states” (Rivlin 2012). Collections from a shared tax system might be distributed on a population basis, which would benefit some of the comparatively low fiscal capacity states in the Southwest. Again, there are no guarantees that fixing state and local fiscal systems would result in better-funded programs for children. But improvements in funding programs where children increasingly live are nearly impossible now, while comprehensive reforms may make it feasible for fiscally weak states to consider expanded assistance to children.

Conclusions

A growing proportion of children, and especially children in economic need, are living in the Southwest, where state fiscal capacities tend to be smaller while political cultures and institutional restrictions often constrain public revenues and expenditures. As a consequence, financing is typically weak in this region for education, social services, income supports, and other programs targeting children. Given the central role of states in making policies and financing programs affecting children, this vast geographic shift in population poses challenges for the U.S. federal system. It suggests the need to formulate and test a wider array of policies affecting children, not just those that appeal to comparatively affluent and politically liberal or moderate states, but to more conservative states as well. It calls attention to the need for more innovative, flexible, and responsive forms of federal assistance to the states—especially forms

that permit federal and state governments to work out adjustments where there is a demonstrable need and political will. And it underlines the importance of general efforts to improve state fiscal systems, which, if not addressed, will continue to impose enormous, sustained pressures on child-related programs, even large and popular programs like K-12 education. None of these suggestions will necessarily increase support for children's programs in the Southwest. But without such changes, it is hard to see how programs benefiting nearly a third of all U.S. children will approach funding levels found elsewhere in the nation.

References

- Bentele, K. G. 2012. "Evaluating the Performance of the U.S. Safety Net in the Great Recession." *Center for Social Policy Publications*. Boston: Center for Social Policy, University of Massachusetts, Boston.
- Dadayan, L. 2012. "The Impact of the Great Recession on Local Property Taxes." *Rockefeller Institute Brief*. Albany, N.Y.: Rockefeller Institute.
- Gais, T. 2009. "Stretched Net: The Retrenchment of State and Local Social Welfare Spending Before the Recession." *Publius* 39:557-579.
- Gais, T., P. Billen, D. Boyd, & L. Dadayan. 2007. *State Funding for Children: Spending in 2004 and How It Changed from Earlier Years*. Albany, N.Y.: Rockefeller Institute of Government.
- Gais, T., D. Boyd, & L. Dadayan. 2012. "The Social Safety Net, Health Care, and the Great Recession." In *Oxford Handbook of State and Local Government Finance*. Edited by John Petersen and Robert Ebel. New York: Oxford University Press.
- Howden, L. M. and J. A. Meyer. 2011. "Age and Sex Composition: 2010." *2010 Census Briefs*. Washington: U.S. Census Bureau.
- Isaacs, J. B. 2011. *The Recession's Ongoing Impact on America's Children: Indicators of Children's Economic Well-Being Through 2011*. Washington: First Focus/Brookings Institution.
- Isaacs, J. B., K. Toran, H. Hahn, K. Fortuny, & C. E. Steuerle. 2012. *Kid's Share: Report on Federal Expenditure on Children through 2011*. Washington: Urban Institute.
- Lesley, B., & M. Curran. 2011. "TANF Supplemental Grants: Reforming and Restoring Support for Children Who Need It the Most." Washington: First Focus.
- Mackun, P. and S. Wilson. 2011. "Population Distribution and Change: 2000 to 2010." *2010 Census Briefs*. Washington: U.S. Census Bureau.
- O'Hare, W. *Investing in Public Programs Matters: How State Policies Impact Children's Lives: 2012 State Child and Youth Well-Being Index (CWI)*. Washington: First Focus, 2012.
- Pavetti, L., L. Schott, & E. Lower-Basch. 2011. *Creating Subsidized Employment Opportunities for Low-Income Parents: The Legacy of the TANF Emergency Fund*. Washington: Center on Budget and Policy Priorities/CLASP.
- Rivlin, A. 2012. "Rethinking Federalism for More Effective Governance." *Publius* 42:387-400.
- Rockefeller Institute of Government. Undated. "State Funding for Children Database." http://www.rockinst.org/government_finance/casey_database.aspx.
- State Budget Crisis Task Force. 2012. Report of the State Budget Crisis Task Force. New York: State Budget Crisis Task Force. <http://www.statebudgetcrisis.org/wp-content/images/Report-of-the-State-Budget-Crisis-Task-Force-Full.pdf>
- U.S. Food and Nutrition Service. 2011. *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2010*. Washington: U.S. Department of Agriculture.
- U.S. Office of Family Assistance. 2012. "Memorandum to States Administering the TANF Program and Other Interested Parties" (July 12). Washington: Office of Family Assistance, Department of Health and Human Services.

Endnotes

1. Temporary Assistance for Needy Families (TANF).
2. Children's Health Insurance Program (CHIP).
3. These differences in state spending correlate with estimated differences in how households fared during the Great Recession. Southwestern states (other than California and New Mexico) provided public benefits to relatively few unemployed people and households with children when compared to other states in 2009. In states that supported low percentages of people and households (such as Texas, Colorado, Utah, and Arizona), household income losses between 2007 and 2009 were larger than in other states, particularly for households in the lowest 10 percent income category (Bentele 2012:23).
4. In-kind contributions were also acceptable.
5. Evidence is drawn from the Census Bureau's annual survey of state and local government expenditures. See Gais (2009) for the coding of social welfare spending, which includes medical assistance (largely Medicaid), income support (e.g., TANF assistance), and social services.



FIRST FOCUS
MAKING CHILDREN & FAMILIES THE PRIORITY

BIG IDEA: Stop Taxing the Poor

by

Rourke L. O'Brien

doctoral candidate, Sociology and Social Policy
Princeton University

Katherine S. Newman

Zanvyl Krieger School of Arts & Sciences
John Hopkins University

Article based on Newman, Katherine S.
and Rourke L. O'Brien. 2011.

Taxing the Poor: Doing Damage to the Truly Disadvantaged.
Berkeley: University of California Press.

Advocates, policymakers and practitioners concerned with improving the lives of America's vulnerable families focus almost exclusively on efforts to increase spending. And for good reason: as the economic downturn continues to squeeze government budgets at the federal, state, and local levels, everything from education to nutrition programs is on the chopping block. In an effort to prevent deeper cuts many states have turned to an old source for new revenue: sales taxes. Despite the good intentions for how these new dollars will be spent, policymakers looking to use regressive tax vehicles to raise new revenue may be penny wise and pound foolish. Our research suggests that how we tax could be just as consequential for family and child well-being as how we spend and taxing the poor hurts everyone in the long run.

Our book, *Taxing the Poor*, considers the evolution of tax systems in the Southern states and how these regressive regimes are serving to make poverty worse today. In the course of our research we calculated recent trends in taxation for all states. In the process we noted that over the last 25 years the Southwestern states were beginning to follow the Southern model of increasing taxes on the poor, diverging sharply from the states of the Northeast and upper Midwest where impoverished families were being taxed less and often receiving a rebate through the tax code. As nearly one-third of all US children call the Southwest home, here we consider what increasing taxes on the poor in this region means for these children and their families.

How States Differ

Scholars and advocates interested in the connection between taxes and poverty typically focus on the merits of expanding the federal Earned Income Tax Credit (EITC). Indeed, the EITC raises more families out of poverty than any other government policy simply by putting more money in the hands of low-income earners.¹ At the same time, less attention has been paid to the tax bills levied on families by state and local governments. As we illustrate, there has been a tremendous divergence at the state level: whereas some states have followed federal lead and used tax policy as a way to fight poverty, others have moved in the opposite direction with tax policies that push poor families further behind.²

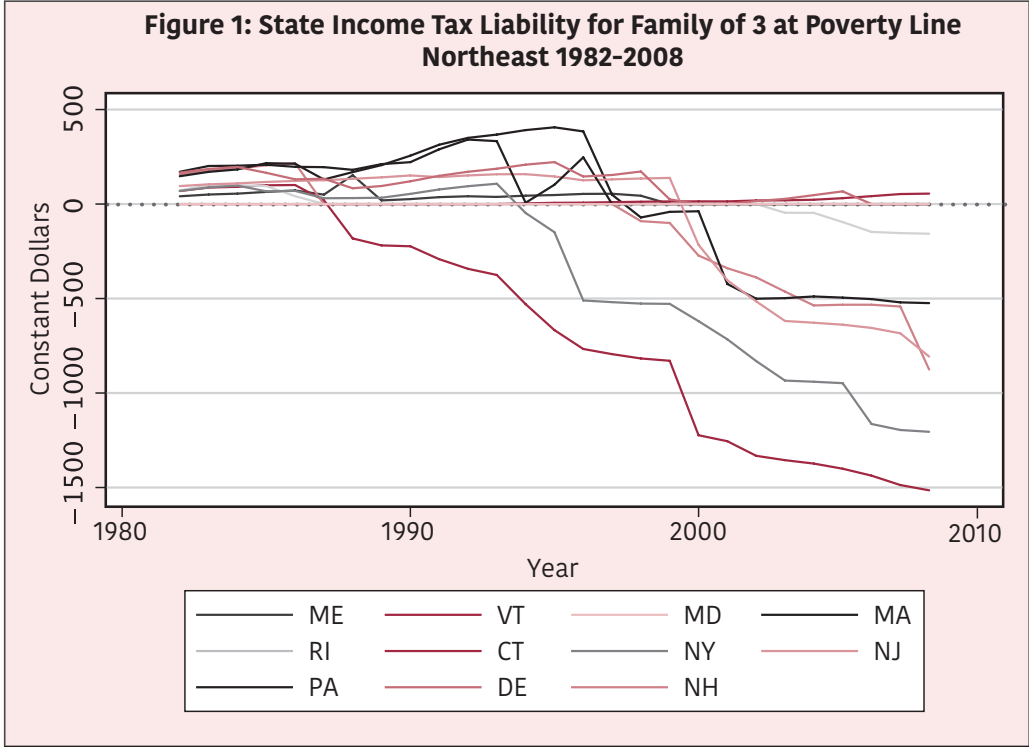
Estimating the tax burden on the poor is a complicated endeavor (a process we discuss at length in *Taxing the Poor*). We began by attempting to understand income tax burden. For this we relied on the National Bureau of Economic Research (NBER) database, "Taxism," which draws on tax returns and administrative data to provide accurate estimates of tax burden by income and family type.³ We used *taxsim* to estimate the income tax burden for a hypothetical family of three—one adult worker and two dependent children under 18—for every state. We then repeated this exercise using data for every year from 1982 to 2008. This provides us with a picture for the income taxes paid by the "Jones family" both across states and over time.

But income tax isn't the only instrument the Southwestern states are using to tax the poor. Given that sales taxes are particularly regressive—and popular—instruments for raising revenues, we wanted to measure the burden these taxes place on families at the poverty line, which is not a simple matter. How much do poor families like the Jones' have to pay in sales tax on food, medicine, clothing and other goods? To determine how much our hypothetical family would pay in sales tax, the uniform "consumption basket" – the goods our family purchases in a year – is multiplied by the sales tax rate they faced in each state, for every kind of purchase, for every year.

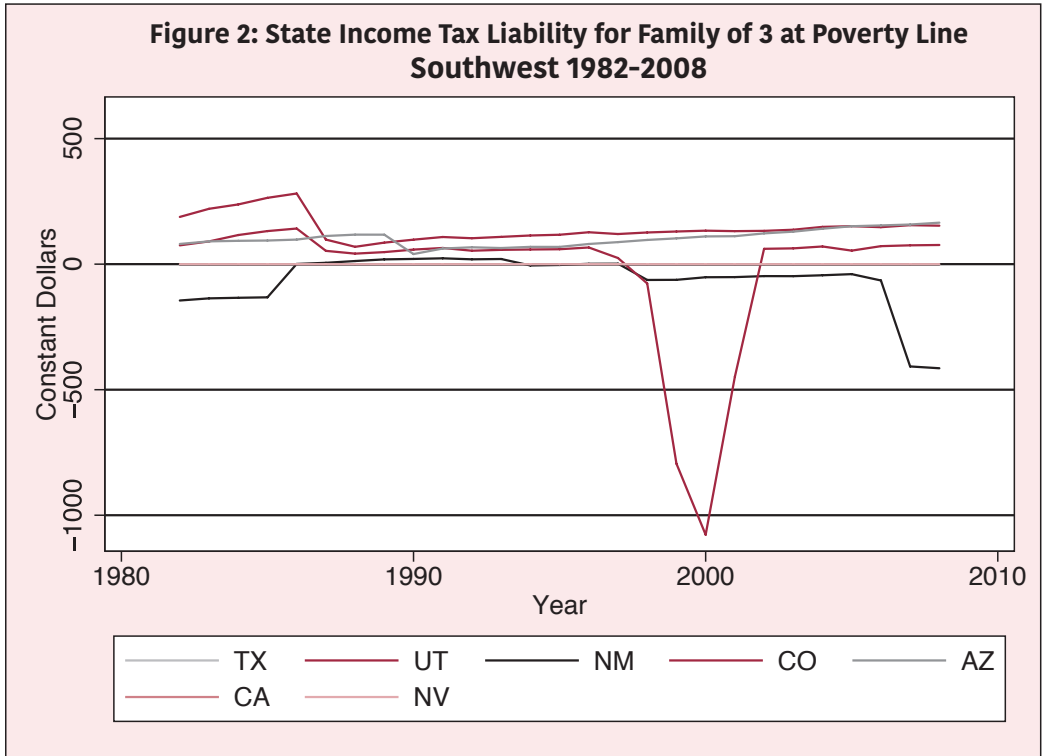
To illustrate how states have diverged over time, we graphed trends in the tax burden on the poor separately for the Southwestern states and the Northeastern states. These figures provide

a sense for how the tax burden paid by the Jones family has changed over time in a region of the country with increasingly regressive policies (Southwest) versus a region with increasingly progressive policies (Northeast).

Figure 1 displays the average state income tax paid by our hypothetical family in each of the Northeastern states from 1982 to 2008. Over this 25 year period, Northeastern states introduced their own refundable tax credits. By the end of this period, no state in the Northeast required families at the poverty line to pay income tax and many had enacted refundable tax credits that actually put more money in the pockets of low-income families. The picture is much different, however, if we look at the trend in the Southwestern states. Here we see that over this time period state income tax liability remained relatively stable—and positive—for families at the poverty line. At the end of the period, only New Mexico used the tax code to put more money in the hands of these families through refundable credits. Notably, Colorado provided a remarkably generous refund to tax filers at the poverty line in 2000 but not in subsequent years. This is because the law in that state only permits refunds via tax credits in years where the state has experienced a budget surplus.



But what about the sales tax burden? Figure 3 shows the trend in the estimated state and local sales tax burden by state for 1982-2008 for the Northeast. The trend lines in every state are relatively flat—across the Northeast, poor families paid about the same amount of their income in sales taxes in 2008 as they did in the 1980s, adjusted for inflation. Compare this with the trend lines in the Southwestern states over the same time period as shown in Figure 4.



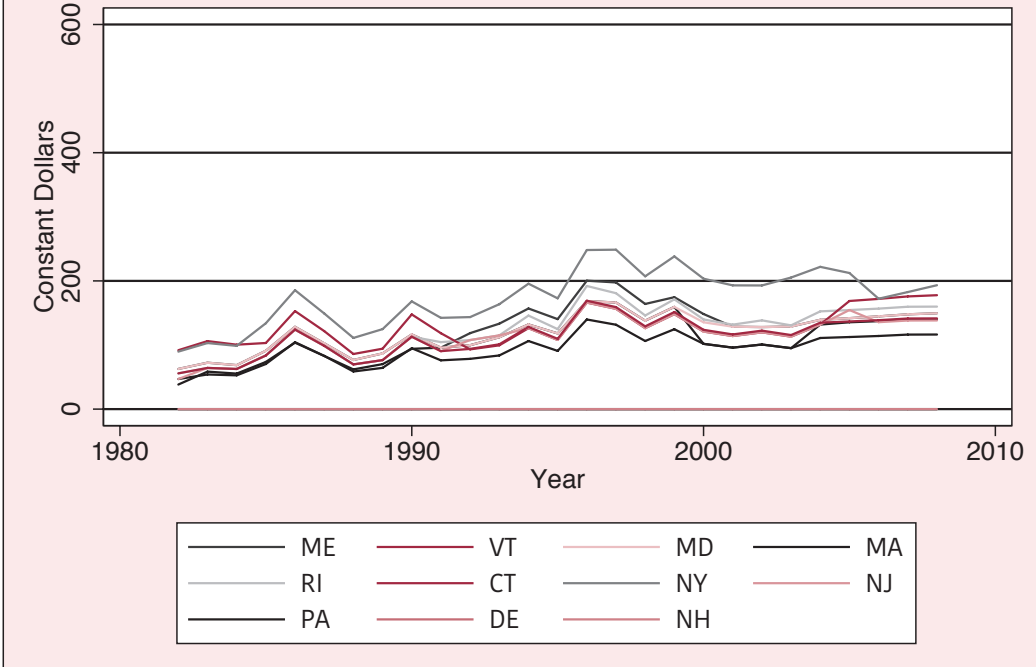
The amount of money a family at the poverty line has to pay in state and local sales taxes has increased in real terms in every state in the Southwest between 1982 and the mid 2000s. Even after adjusting for inflation, state and local sales taxes have taken an increasing large bite out of the wallets of low-income families in the Southwest.

Taken together, there is a profound difference in the taxes paid by poor families in Southwest versus the Northeast. Whereas the Jones family faces a net tax burden of several hundred dollars in many Southwestern states, that same family would receive a tax refund of several hundred dollars in many Northeastern states, thanks to generous refundable tax credits. Moving from one state to another could save families up to \$1,000 in direct taxes. For families making less than \$20,000 per year, this difference in tax policy has meaningful implications for household income and, in turn, for family and child well-being.⁴

Why Tax Policy Matters

But do differences in how states tax the poor translate into differences in measures of well-being? A growing body of research suggests it does. Statistical modeling using data from 1982-2006 finds that states that increased the tax burden on poor households did worse on a number of health and social outcomes than states that decreased the taxes paid by the poor. Specifically, increased taxes on the poor are found to be associated with higher relative mortality—a broad indicator of population health. The link between taxation and child health is particularly notable, with one study noting that states that enacted an Earned Income Tax Credit saw a

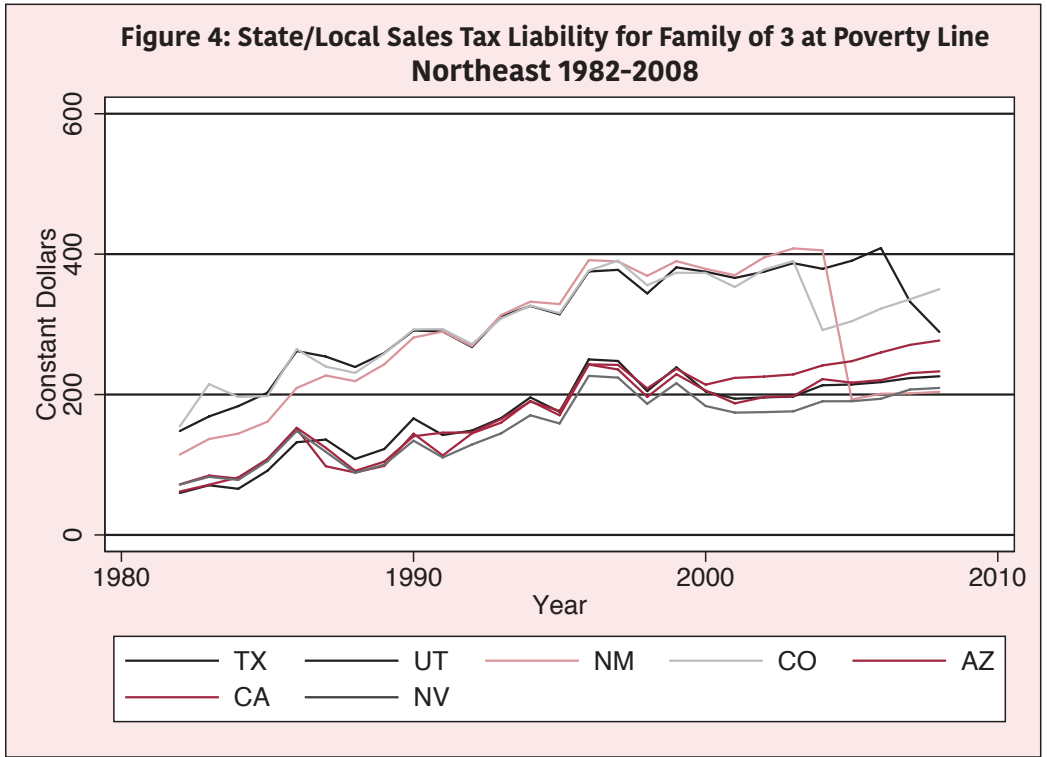
Figure 3: State/Local Sales Tax Liability for Family of 3 at Poverty Line Northeast 1982-2008



reduction in babies born underweight, which has lasting implications for child health and development.⁵ At the same time, our research finds that increasing taxes on the poor is negatively associated with high school completion; as the taxes on the poor go up, high school graduation rates go down. Moreover, increasing taxes on the poor also appears to be associated with increases in violent and property crime and even births to unmarried mothers. These associations were found net of a host of factors, including state social spending, political party control, unemployment, and poverty.

How does increasing taxes on the poor threaten child well-being? Quite simply: Money Matters. Every dollar taken out of the pocket of a low-income families can have consequences for material hardship—ability to pay for basic necessities like food, rent, and electricity. What’s more, having to make ends meet with fewer dollars can lead to increased stress, which has consequences for the mental well-being of parents and, in turn, influences how they parent their children.

Taxing the poor has clear negative consequences for low-income children and families. But these negative consequences are not merely detrimental to vulnerable families; they’re costly for the entire society. States that increase taxes on the poor to fill budget holes will find their efforts self-defeating. Weakening the pocketbooks of poor families only serves to worsen health, reduce educational attainment, and increase crime—which costs everybody. To put it simply: Taxing the poor makes everybody worse off.



What Is To Be Done?

There is much that can be done—in states and in Washington—to transform tax systems from instruments that weaken already vulnerable families into tools for fighting poverty

Individual states should proactively work to make their tax systems more progressive—doing so will pay dividends in the long run, in the form of reduced crime, better health and a more educated citizenry. In addition to lowering the general sales tax rate, excluding whole categories of goods from taxation—such as clothing—or offering a rebate to low-income families can also serve to lessen the hit to low-income families. At the same time, Southwestern and Southern states should follow the lead of their counterparts in the Northeast and Midwest by using the tax code as a tool for fighting poverty by introducing refundable Earned Income Tax Credits. Finally, states must eliminate supermajority rules and other constitutional limits on taxation. These rules—such as California’s famous Proposition 13—put downward pressure on progressive tax instruments such as property taxes and increases reliance on regressive instruments such as sales taxes and user fees.

States in the Southwest—and across the country— can certainly do more to ensure their tax codes don’t make matters worse by taking money out of the hands of vulnerable families. But we recognize that many states cannot afford to eliminate all taxes on the poor, particularly in this fiscal climate. Moreover, states with a high number of impoverished families have to deal with the double whammy of having greater need for social spending on schools, health and

welfare trying to raise revenue from a poorer tax base. Much of this spending is in the form of federal matching grants, where states have to generate their own revenue to match federal dollars for high cost programs like Medicaid. We believe this needs to change. Truly reducing the squeeze on poor families requires reducing the squeeze on poor states by moving funding for key areas of social spending from state capitols to Washington, DC. Moving the financing of major programs to the Federal level will ensure that poorer states and localities don't have to shoulder more than wealthier communities while guaranteeing that vulnerable families have the social supports they need regardless of state residence.

In efforts to increase government resources for vulnerable children, it is important to consider how we raise revenue. Using regressive instruments such as the sales tax is certainly politically expedient, as many voters believe—wrongly—the sales tax is “fair”. But taking the money out of the pockets of low-income parents will only serve to make matters worse for everyone, particularly their children.

Rourke L. O'Brien is a doctoral candidate in Sociology and Social Policy at Princeton University. Katherine S. Newman is the James B. Knapp Dean of the Zanvyl Krieger School of Arts and Sciences at the Johns Hopkins University.

Endnotes

1. See: Kneebone, Elizabeth. 2009. Economic Recovery and the EITC: Expanding the Earned Income Tax Credit to Benefit Families and Places. Washington DC: Brookings.
2. The focus of our original research, *Taxing the Poor*, is on the evolution of tax policy regimes in the US South, not the Southwest. However, in the course of that project we generated tax trend data for a family in poverty for all 50 states. Here wFirst Focus volume. For more information, see *Taxing the Poor*.
3. For more information, see <http://www.nber.org/-taxsim/>
4. Separate analyses demonstrate that this difference in household income is meaningful despite cost of living differences that may exist between states.
5. See Strully, Kate W., David H. Rehkopf, and Ziming Xuan. 2010.

COMMISSIONING YOUTH: Addressing Housing and Child Well-being in the Colonias Region

by

Moises Loza

Executive Director,
Housing Assistance Council

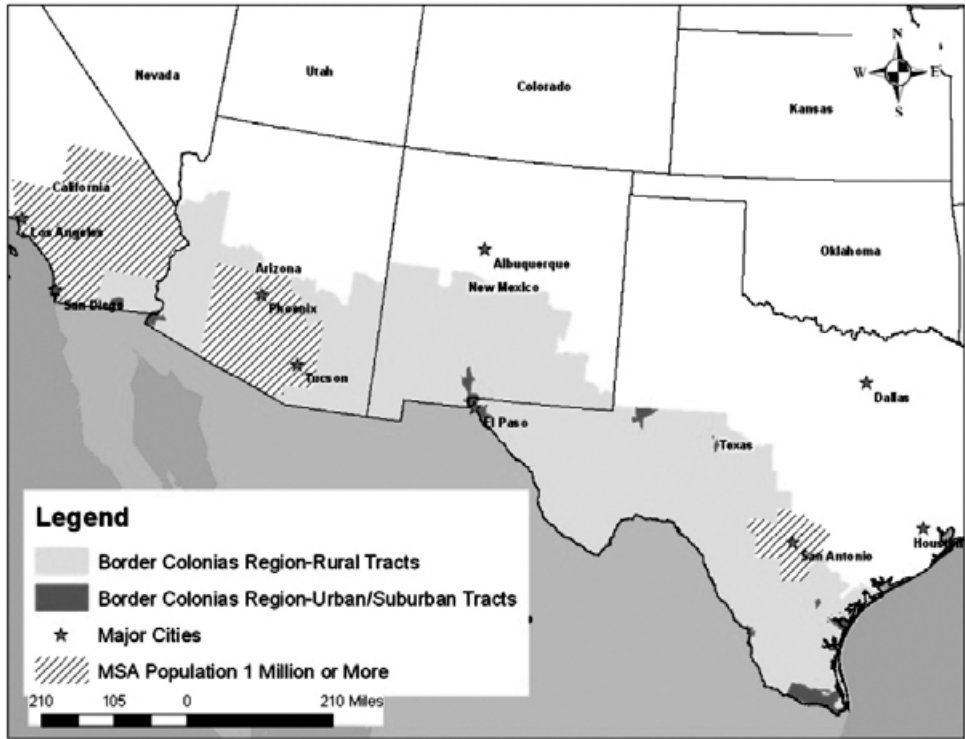
Stefani Cox

Research Assistant,
Housing Assistance Council

The American Southwest is distinct from the rest of the nation through a number of characteristics, such as climate, population demographics, and community settlement patterns. Within the greater Southwest lies another distinct geographic area, the colonias region. The colonias region is a predominantly rural area along the U.S.-Mexico border that experiences high rates of poverty in comparison to the rest of the U.S., as well as concerns with housing infrastructure, credit, and housing quality. The region is predominantly Hispanic, and has a higher percentage of youth than the nation overall.

A home is the foundation of family life, and poor housing conditions can have a strong, negative impact on the lives of children. These impacts are particularly strong in the colonias region, which has a history of housing and infrastructure struggles. To address these issues, we recommend the creation of a Colonias Regional Commission, to leverage resources and help facilitate improved housing conditions for families and children within the region.

The Colonias Region



Map 1. The Border Colonias Region and Rurality

For the purposes of this article the colonias region is identified by the Cranston-Gonzalez National Affordable Housing Act of 1990. According to this definition, colonias are “any identifiable community (i.e., with defined boundaries) within 150 miles of the United States-Mexico border in Arizona, California, New Mexico and Texas, that was in existence before November 28, 1990, excluding metropolitan statistical areas with populations exceeding one million.”¹ (see Map 1).

The colonias region has a higher percentage of children than the nation as a whole. Within the region, 29.2 percent of the population is under age 18, while in the U.S. overall only 24.0 per-

cent of the population is under 18.² Because the region has a higher percentage of youth, social and economic factors pertaining to youth should play a prominent role in area politics and policy decisions. Policies that generally act in favor of family well-being should be advanced, since policies that act to improve family welfare in the region will also work toward the best interests of youth.

Housing and Infrastructure in the Colonias Region



Dona Ana County, New Mexico (2010)

The colonias region has long struggled with housing and infrastructure difficulties. In Texas, the state with the largest colonia land area, colonias developed mainly through the contract-for-deed system beginning in the 1950s.³ Under this system, real estate owners sold parcels of undeveloped land at low-cost to poor, often immigrant, households and individuals flocking to the region. Many homebuyers in the colonias have bad or no credit combined with low access to traditional bank financing, making seller-financing the only alternative. Borrowers obtain no equity through the contract-for-deed system, as land ownership remains with the seller until the total purchase price, often including a high rate of interest, is paid.⁴ Contract-for-deed land parcels often had little or no access to water/sewer systems or electricity. Frequently houses were constructed on these land parcels in a portion-by-portion manner, as each year a household saved enough money to add on to the lot. Thus, in many cases, housing in colonias was developed through incremental growth rather than under a comprehensive development plan.

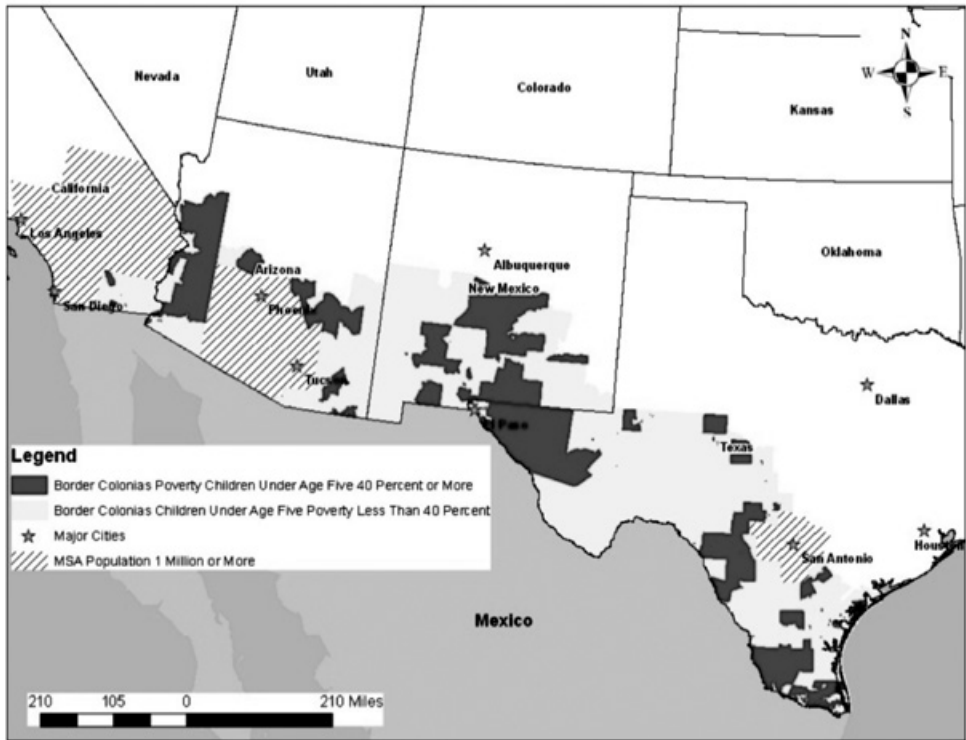
Other colonias states have a different development history than Texas. While colonias in Texas proliferated due to poor land regulation and tend to consist almost entirely of a Hispanic population, colonias in California are typically older, more ethnically diverse settlements that have deteriorated over time.⁵ Regardless of their formation process, colonias across all states share similar housing difficulties:

- **Infrastructure.** Housing units within the colonias are more than twice as likely to lack complete plumbing as homes in the U.S. overall.⁶ Other infrastructure challenges within the colonias include lack of electricity and paved roads.⁷ Many colonias were developed on less-desired land, often within floodplains⁸, meaning that housing in these regions are frequently subjected to environmental hazards that contribute to unsafe, unsanitary conditions and rapid deterioration. Such physical instability in a home is challenging to a child, both emotionally and in regards to health.
- **Crowding.** Crowded living conditions for a family mean less individual space for a child to sleep or conduct activities such as homework. Within the colonias region, household crowding (defined as having more than one person per room) is much more common than rates of crowding nationwide. In the U.S. overall, only 3.1 percent of units are crowded, while in the colonias region, over twice as many homes are crowded, at 7.1 percent. Among minorities in the colonias, the crowding rate is even higher, at 10.2 percent.⁹
- **Housing Instability.** It is difficult to estimate how widespread the contract-for-deed lending system is within the colonias region due to the relative anonymity of the process, but it has certainly had a large impact on colonia development. Contract-for-deed lending can seem attractive to homebuyers because it may allow them to access credit when they otherwise would not be able to qualify for a loan. However, when a mortgage is not backed by a third-party entity, risk protection is greatly reduced and the potential for shady business practices increases.¹⁰ Even under the best conditions, contract-for-deed financing provides very little support if a buyer begins to default, meaning the entire investment can be lost even after a good payment history. In addition to the risk posed by contract-for-deed lending, homes owned by racial and/or ethnic minorities, especially Hispanic individuals, are more likely to be financed under contract-for-deed than homes owned by non-minorities.¹¹ High financial losses through failed contract-for-deed lending can bring instability to both individual families and overall communities.

Research suggests that low-income families face credit difficulties at a higher rate than middle- and upper-class Americans,¹² and the colonias region is no exception. Studies of the Texas border area have noted a prevalence of erratic incomes and a mistrust of traditional financial institutions¹³ which, along with fewer financial opportunities in rural areas¹⁴, may be a factor in pushing residents into subprime lending options. In contrast to traditional financial sources, subprime lenders may offer services that do not require financial documentation,¹⁵ and that seem more accommodating of erratic forms of income.

Subprime lending is a risky venture for families with children. While these loans may seem appealing at the outset, they are frequently accompanied by high fees and confusing penalties that trap borrowers.¹⁶ Subprime loans can strain the financial resources of a family to the breaking point.

Poverty is an underlying contributor to most colonia housing issues. Youth in the colonias region are much more likely to be poor than their counterparts in the nation as a whole. Families within the colonias region are twice as likely to have a child in poverty as families in the U.S. overall.¹⁷ Map 2 below shows that a large percentage of colonias regions have under age 5 poverty rates of over 40 percent. Such high poverty rates at such an early age must be addressed.



Map 2. Under 5 Poverty Rate in the Colonias Region

A Colonias Commission

In consideration of the myriad housing and poverty challenges throughout the colonias, youth in the region would be well served by the development of a Colonias Regional Commission. A regional commission is a governmental, multi-jurisdictional planning entity that seeks to promote socioeconomic well-being within its area. The Appalachian Regional Commission (ARC) is an example of an interstate regional commission currently in existence. Other examples of interstate regional commissions have included the Lower Mississippi Delta Development Commission and the Four Corners Regional Commission. Commissions do not have a particular political affiliation, and thus serve as a forum for cross-sector and cross-political collaboration.

Regional commissions typically have several community development goals. For instance, the ARC's focus areas include community infrastructure, asset-based development, and health, among several others.¹⁸ The regional nature of the commission allows for area key players and commission members to identify the most pressing yet geographically relevant socioeconomic issues.

An examination of ARC's impact shows that commissions have a large potential to positively impact the lives of youth. Children's welfare is an intersectional issue, influenced wherever a policy or program aims to impact family social and economic well-being. Infrastructure

improvements that enable the head of a family to get to work more efficiently, or business initiatives that enable that person to work for better pay will positively impact children in the family through increased financial resources for necessities such as food, healthcare, and clothing. One evaluation of 32 ARC-funded water and sewer projects found that the activities created 6,966 new jobs, and retained 7,160 jobs.¹⁹ As such, while past commissions may not have specifically had a children's focus area, they have all done important work of improving child well-being.

Connections have been made throughout the past few decades indicating a correlation between certain aspects of the built environment and physical and mental health.²⁰ Housing conditions are particularly extreme in the colonias region where a large proportion of residents are children. With these factors in mind, a central component of any proposed Colonias Regional Commission would be a youth program area to address the specific concerns and needs of this vulnerable population. While a commission's strengths lie in being able to solve problems from an intersectional standpoint, having a specific youth program area will help ensure that children's needs are at the forefront of all discussions and policy decisions.

The youth program area should actively seek youth participation. A variety of avenues could allow for such participation. For instance, the commission could have a council of youth to formulate policy ideas and evaluate policy proposals. The commission could also seek youth participation through focus groups about critical issues such as transportation-oriented development, housing financing, and access to quality education and health resources. As much as parents, advocacy groups, and government officials can be well-informed about youth issues, there is no replacement for direct youth voices from their daily living experiences.

The YouthBuild Example:

The U.S. Department of Labor runs an innovative program called YouthBuild USA that the Colonias Regional Commission should seek to incorporate into its structure. YouthBuild recruits low-income and at-risk youth as active participants in improving their communities through community development work and education.

YouthBuild's website shows low activity within the border area, indicating that the colonias region could serve to benefit from such program resources. The Colonias Regional Commission should seek to host a region-wide YouthBuild program, sponsored through local nonprofit organizations and specifically targeted to improving poor housing conditions in the area.

(For more information, see: <https://youthbuild.org/>)

A Powerful Potential for Change

A colonias regional commission could impact change in the area through several important types of activities:

- **Financial support.** The commission could garner resources to offer financial support to local initiatives that simply need more funding to be most effective. For example, the commission could target grant or loan money from federal sources to rehabilitate or remodel existing home units. With children's issues as a central tenant of the commission's plans, financial support would go toward the programs that benefit families most.
- **Educational resources.** A regional commission could also gather or create educational resources relevant to youth welfare in the colonias region. Because of its interstate nature, the commission would be in a better position than other nonprofit, local government, or private entities to convene leaders across the entire colonias land area. Educational opportunities could include training and technical assistance resources for developers of affordable housing, or credit counseling resources for community-based groups. Overall, these educational resources should be geared toward helping families improve their housing quality and affordability.
- **Research.** A final key strength of a regional commission would be the ability to initiate and compile targeted youth and family research on the colonias area. The colonias region varies significantly from state to state, yet many commonalities of culture, housing, and poverty issues tie the region together. Much of the colonias research thus far has been developed on a state-by-state basis, while larger-scale, regional analyses have been few and far between. Regional research could help identify more of these commonalities, as well as help shape policy priorities for children in the area.

In performing the types of activities outlined above, the colonias commission and its youth program area should promote certain priorities:

- **Culturally appropriate solutions.** The colonias commission would support culturally appropriate solutions to family housing issues. For example, the Hispanic homeownership rate within the colonias region is 34.2 percent higher than the Hispanic homeownership rate of the nation overall.²¹ As such, policies that address the overwhelming regional need for quality, affordable homeownership units will be more valuable to youth and their families than policies that focus heavily on rental housing.
- **Supporting local advocacy.** In order to be most effective, a colonias commission would need to recognize and support the already strong local advocacy and empowerment of various colonias communities. For example, community-based nonprofits such as Proyecto Azteca in Texas and Tierra del Sol Housing Corporation in New Mexico, advocate for comprehensive community development that will benefit low-income, minority families. The commission would provide a forum for these well-organized, empowered groups to collaborate, as well as shift the dialogue from a community to a regional level. These community organizations and local government should be a central voice in designing youth policy for the colonias area. Working together can amplify these individual voices into a more powerful force for change. Instead of advocating from the outside-in, a commission would hopefully create an opportunity for already well-organized advocates to incorporate themselves into governmental processes at a broader level.

- **Long-term planning.** Part of the benefit of a commission is the ability to support and develop projects that involve long-term planning. In the day-to-day functioning of many local nonprofit, government, or private organizations it can be difficult to find the time or resources to spend on projects with little short-term payoff, even if the project’s long-term benefits align with organization goals. For instance, many affordable housing developers find it challenging to build using the most environmentally-friendly materials and building practices, due to additional initial costs. Such houses are often more energy efficient in both hot and cold weather, which allows families to save on heating and air conditioning costs over time. These increased savings could potentially lead to a larger percentage of household income being spent on nutritious food, adequate healthcare, and other necessities for healthy child development. A commission could help strategize for and gather the resources to help create more opportunities for “green” building.
- **Long-term funding.** Long-term planning can also facilitate the pursuit of long-term funding that is difficult to leverage at the level of community-based organizations and local government. Multi-year grants and federal funding become more accessible community development sources with a larger entity such as a commission.
- **Current issues.** Foreclosure patterns from the housing crisis showed that national economic disasters can have regional impacts.²² The institution of a commission could be used in future times of economic distress to rapidly work toward a regional solution, rather than trying to address such large problems on a state-by-state basis.



Dona Ana County, New Mexico (2010)

The Youth Program Area

Program areas within a commission provide the opportunity to focus on specific regional issues. A youth program area would bring families and children to the forefront of the conversation and could improve youth welfare by addressing some of the most important issues for the younger population in the colonias region:

- **Single-parent families.** The colonias region has a much higher percentage of female-headed households with a child in poverty (52.3 percent) than nationwide (37.5 percent).²³ Addressing poverty in single-parent households may require different strategies than addressing the same issue within two-parent households. Understanding the financial resource and time constraints of single-parenting is crucial for the development and implementation of housing and infrastructure assistance.
- **Mixed-status households.** It is impossible to divorce the social and economic landscape of the U.S. colonias region from its proximity to Mexico. Due to immigration patterns and policy, a number of undocumented or mixed immigration status families live in the states that make up the colonias region.²⁴ Households with one or more members who are undocumented face additional challenges in dealing with housing. Credit is more difficult to obtain when official documentation is unavailable, and without the ability to build up good credit, residents of the region may be tempted to turn to subprime lending alternatives. Additionally, mixed status families may not be eligible for federally funded affordable housing programs. The youth program area could work on initiatives to assist mixed-status families in accessing safe, affordable homeownership and rental options.
- **Multi-lingual families.** English language proficiency and overall literacy rates vary among Latinos. In order to facilitate comprehension of the complicated processes and technical language involved in buying or renting a home, the youth program area should develop a multi-lingual approach to housing counseling and community development, as well as facilitate financial and mortgage literacy.

Through a nuanced understanding of these core family dynamics that arise in the colonias region, the youth program area would embody a powerful potential for change. The unique perspective that youth and their advocates bring of families and their daily challenges would be a source of energy to create and lobby for policies that promote youth and family welfare. With such a perspective, these policies might include alternative home financing models for very-low income families, increased financial literacy opportunities, and wider availability of multi-lingual resources throughout the rental and homeownership processes. Positive advances with these kinds of policies could lead to improved housing and financial conditions for many families, as well as related improvements in overall child health and well-being.

Youth and their advocates would likely also understand that ultimately child well-being is an intersectional issue that requires a cross-sector approach. Some neighborhood-level factors that are not specific to the purchase, rental, or maintenance of housing unit itself must also be addressed. Children and families must have the ability to safely navigate their environment and obtain necessary local support resources in order to stay active and healthy. Thus issues of housing discussed within the youth program area could also lead to broader, beneficial changes in colonia community development.

A Focus on the Future

This article is meant to serve as an outline for the creation of a Colonias Regional Commission. In reality, the plan for such an undertaking would be far more complicated and require much more in-depth planning. However, we hope that the ideas outlined throughout the paper illustrate a cursory view of what such a commission could look like.

Above all, it is important to remember that the colonias region is a place of optimism for the future, especially among youth. This optimism is central to envisioning change and generating solutions. By making youth, housing, and infrastructure into priorities, the commission would improve the welfare of the greater Southwest and improve living conditions within this region of persistent poverty.

Photographs taken by HAC staff.

Endnotes

1. HUD Office of Community Planning and Development Notice. Guidelines for Administering the State Community Development Block Grant (CDBG) Colonias Set-Aside. April 17, 2012. Accessed May 21, 2012. portal.hud.gov/hudportal/documents/huddoc?id=11-01cpdn.doc.
2. HAC tabulations of 2010 Census data.
3. Federal Reserve Bank of Dallas. Texas Colonias: A Thumbnail Sketch of the Conditions, Issues, Challenges, and Opportunities. Accessed May 21, 2012. <http://www.dallasfed.org/assets/documents/cd/pubs/colonias.pdf>.
4. Ibid.
5. Mukhija, Vinit, and Monkkonen, Paavo. Federal Colonias Policy in California: Too Broad and Too Narrow. 2006. Accessed May 21, 2012. <http://content.knowledgeplex.org/kp2/cache/documents/2542/254228.pdf>.
6. HAC tabulations of 2006-2010 American Community Survey (ACS) data.
7. State Energy Conservation Office. Colonias Projects. Accessed May 21, 2012. <http://www.seco.cpa.state.tx.us/colonias.htm>.
8. Federal Reserve Bank of Dallas. Texas Colonias: A Thumbnail Sketch of the Conditions, Issues, Challenges, and Opportunities. Accessed May 21, 2012. <http://www.dallasfed.org/assets/documents/cd/pubs/colonias.pdf>.
9. HAC tabulations of 2006-2010 American Community Survey (ACS) data.
10. Myslajek, Crystal. Risks and Realities of the Contract for Deed. The Federal Reserve Bank of Minneapolis. January 1, 2009. Accessed June 20, 2012. http://www.minneapolisfed.org/publications_papers/pub_display.cfm?id=4098.
11. Ibid.
12. Weller, Christian E. Access Denied: Low-Income and Minority Families Face More Credit Constraints and Higher Borrowing Costs. August 2007. Accessed May 21, 2012. http://www.americanprogress.org/issues/2007/08/pdf/credit_access.pdf.
13. Texas Department of Housing and Community Affairs. Home Mortgage Credit Characteristics of Underserved Areas: A State of Texas Market Study. August 2002. Accessed May 21, 2012. <http://www.tdhca.state.tx.us/housing-center/docs/02-MktStdy-020903.pdf>.
14. Singleton, et al. Subprime and Predatory Lending in Rural America: Mortgage Lending Practices That Can Trap Low-Income Rural People. Fall 2006. Accessed May 21, 2012. <http://www.ruralhome.org/storage/documents/predatoryandsubprime.pdf>.
15. Texas Department of Housing and Community Affairs. Home Mortgage Credit Characteristics of Underserved Areas: A State of Texas Market Study. August 2002. Accessed May 21, 2012. <http://www.tdhca.state.tx.us/housing-center/docs/02-MktStdy-020903.pdf>.
16. Singleton, et al. Subprime and Predatory Lending in Rural America: Mortgage Lending Practices That Can Trap Low-Income Rural People. Fall 2006. Accessed May 21, 2012. <http://www.ruralhome.org/storage/documents/predatoryandsubprime.pdf>.
17. HAC tabulations of 2006-2010 American Community Survey (ACS) data.
18. Appalachian Regional Commission. Accessed May 21, 2012. www.arc.gov.
19. BizMiner/Brandow Company Inc. and EDR Group. Program Evaluation of the Appalachian Regional Commission's Infrastructure and Public Works Projects. October 2007. Accessed May 21, 2012. http://www.arc.gov/assets/research_reports/ProgramEvaluationofARCInfrastructureandPublicWorksProjects.pdf.
20. Hood, Ernie. Dwelling Disparities: How Poor Housing Leads to Poor Health. Environmental Health Perspectives 113(5): A310-A317. May 2005. Accessed May 21, 2012. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1257572/>.
21. HAC tabulations of 2006-2010 American Community Survey (ACS) data.
22. RealtyTrac®. National Real Estate Trends. Accessed May 24, 2012. <http://www.realtytrac.com/trendcenter/>.
23. HAC tabulations of 2006-2010 American Community Survey (ACS) data.
24. Passel, Jeffrey and Cohn, D'Vera. Unauthorized Immigrant Population: National and State Trends, 2010. February 1, 2011. Accessed May 21, 2012. <http://www.pewhispanic.org/2011/02/01/unauthorized-immigrant-population-national-and-state-trends-2010/>.

CHILD WELFARE, RIGHTS, & SAFETY



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

A DREAM OF YOUTHFUL HOPES: Securing the American Dream for the Children of Immigrants

by

Mark Leonard Shurtleff
Utah Attorney General

Abstract

The lack of action by federal policymakers to address immigration reform has resulted in the introduction of state laws around the country that have a direct impact on children of immigrants. In this paper Utah Attorney General Mark Shurtleff discusses federal and state proposals such as the Development, Relief, and Education for Alien Minors Act (DREAM Act), in-state tuition, and punitive state immigration laws as they relate to children and families. The paper makes the case for a sensible and just approach to immigration reform that recognizes the need to support children of immigrants. The paper highlights the success of the Utah Compact as well as the importance of recent federal administrative reforms and culturally competent youth development programs.

While researching my historical novel about the slave Dred Scott who sued for his freedom, I visited the restored row house of his St. Louis attorney Roswell Field. In 1852 within that shuttered home across the street from the Broadway Slave Pen, the Scott's daughters played as equals with the Field children and with Susan, the ten year old granddaughter of Peter Blow who had been Dred's first owner, but whose children were now committed to securing his freedom. In the upstairs study their parents met to plan the legal action they dreamed would finally make the inspired declaration that "all men are created equal" into a blessed reality. A decade later the Supreme Court would sadly rule in *Scott v. Sandford* that Dred was not a "man" in the meaning of the Declaration of Independence; and that the U.S. Constitution actually secured the right of a white man to own a black man. Fortunately, a heroic figure in the mold of Roswell Field vowed he would not let that terrible ruling remain the law of the land, and Abraham Lincoln became president and made the Scott's dream a reality for millions of Americans. After the Emancipation Proclamation and a brutal civil war, Congress and the American people completed what Dred Scott, Roswell Field and Lincoln had set in motion. The Fourteenth Amendment overturned the Dred Scott decision and forever secured the rights and blessings of citizenship to all children born in this country, and the equal protection of the laws to all people residing within its territorial jurisdiction.

As is often the case, education began at home and the Scott, Field and Blow children learned from the examples of their parents. Twenty years later Susan Blow would start the first kindergarten in America with the motto, "Let us Live for the Children." Little Eugene Field would grow to become the beloved children's poet, who authored such classics as *Wynken, Blynken, and Nod* and *Little Boy Blue*. Childhood dreams were a favorite subject. In *The Dreams* he wrote,

*...And 't was a dream of the busy world
Where valorous deeds are done;
Of battles fought in the cause of right,
And of victories nobly won.*

...

*But 't was a dream of youthful hopes,
And fast and free it ran,
And it told to a little sleeping child
Of a boy become a man!¹*

Dreams have inspired the children of America to nobly fight for the cause of right, but it is educational opportunity which has given the dreamer the tools to fully realize those youthful hopes. It took other brave visionaries to continue what the Scotts, Fields and Blows began. One hundred years later in the neighboring state of Kansas, just 300 miles west of the Field house in St. Louis, seven year old Linda Brown walked twenty blocks from her home in East Topeka to her segregated all-black Monroe School. Wanting his girls to have better opportunities than he himself had, Linda's father brought suit to allow her to attend a white school close to home. On May 17, 1954, Supreme Court Chief Justice Earl Warren ruled:

To separate [school children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone... We conclude that in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal.²

From the worst decision in the history of the Supreme Court to one of the best, the Founders' imperfect quest "to form a more perfect Union," was continued by ordinary people seeking to first "establish justice" - often for their little ones. That quest took a sharp left turn at Topeka and headed 500 miles due south to Tyler, Texas. Thirty years ago, the High Court once again stepped in at the request of parents, and further clarified the constitutional right to equal access to learning for all those who live within the borders of this great nation. This time it was Jose and Lidia Lopez who wanted their children to have the education they could not get in Mexico. In 1975, Texas had passed laws that prohibited the use of state funds to educate the children of undocumented immigrants. The Court found that the Tyler Independent School District policy unconstitutionally excluded the Lopez children from the equal opportunity to receive a free public education.

In their 1982 *Plyler v. Doe* opinion, all of the justices agreed that “the Equal Protection Clause of the Fourteenth Amendment applies to aliens who, after their illegal entry into this country, are indeed physically ‘within the jurisdiction’ of a state.” Writing for a 5-4 majority of the court, Justice Brennan further found that the federal government’s failure to adequately address the problem of illegal immigration had created an “underclass” of residents that “presents most difficult problems for a Nation that prides itself on adherence to principles of equality under law.” The court explained that while a public education is not a fundamental “right” guaranteed by the Constitution, it is “a most vital civic institution for the preservation of a democratic system of government, and as the primary vehicle for transmitting ‘the values on which our society rests.’ It therefore does have “a fundamental role in maintaining the fabric of our society.” Justice Brennan concluded that Texas did not justify its denial of “a discrete group of innocent children the free public education that it offers to other children residing within its borders” and therefore it violated the Equal Protection Clause of the Fourteenth Amendment.³

In so ruling, the court elucidated important principles that are highly relevant to the current debate over illegal immigration, particularly as it relates to children.

“Illiteracy is an enduring disability,” Justice Brennan continued.

The inability to read and write will handicap the individual deprived of a basic education each and every day of his life. The inestimable toll of that deprivation on the social, economic, intellectual, and psychological wellbeing of the individual, and the obstacle it poses to individual achievement, make it most difficult to reconcile the cost or the principle of a status-based denial of basic education with the framework of equality embodied in the Equal Protection Clause. What we said 28 years ago in Brown v. Board of Education, still holds true: ‘Today, education is perhaps the most important function of state and local governments. . . It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.’⁴

He then concludes, “denying the children in question a proper education would likely contribute to ‘the creation and perpetuation of a subclass of illiterates within our boundaries, surely adding to the problems and costs of unemployment, welfare, and crime.’⁵

In-state Tuition

As the Lopez children and hundreds of thousands like them attended school, learned English, assimilated, played Little League and took the Scout Oath, they became Americans and dreamed of giving back to their adopted country. In 2007, on the 25th anniversary of *Plyler v. Doe*, Superintendent James Plyler renounced his earlier opposition to enrolling the children, and told the Dallas Morning News, “...”It would have been one of the worst things to happen in education — they’d cost more not being educated. Right after we let those youngsters in, I was pleased.”

Of course, higher education would allow these youth to dream bigger, and yet the courts did not extend the Equal Protection Clause to post-secondary educational opportunities. Nevertheless, many in state and the federal government hearkened to the educators who stressed the incredible unrefined and untapped intellectual, creative and productive reservoir of these immigrant children growing into young adulthood. Some were surprised that it was Lone Star legislators who seemed to have learned most from the past, and in 2001 made Texas the first in the country to offer equality to undocumented teenagers whose parents brought them into the state as minors. If those kids stayed in school and out of trouble and graduated with their classmates from a Texas high school, they would have earned the equal opportunity to pay the lower in-state tuition to attend a Texas state college or university. I still remember as a first year Utah Attorney General being inspired and moved by the brave actions of Texas lawmakers. From personal experience, I understood the powerful motivational tool that in-state tuition could be to tens of thousands of young Utahns.

As an assistant Utah attorney general in the 90's I volunteered to participate in a mentoring program. Once a week I went into fifth grade classrooms in an inner-city school in Salt Lake City to teach conflict resolution as a means of staying out of gangs. In Utah a highly disproportionate number of Latino youth join criminal gangs. I utilized my Spanish proficiency and love of Hispanic culture and values to encourage these enthusiastic youngsters to avoid gangs and drugs, stay in school and out of trouble and learn English. I promised them that in America, they could succeed regardless of their race, ethnic origins, socio-economic condition or even legal status. I'll never forget the day when one fifth-grader boldly disagreed with me and declared that his older brother, who happened to be in a local gang, told him "white people" say they are all "illegals" and should be kicked out or put in jail and could not make it in Utah, so being a gangbanger was the only way. He was rightfully angry, but I also noticed the unmistakable hurt in his dark eyes. I tried to persuade him that this was not the case, but he demonstrated his intellect and his street education when he asked me, "then [why can't I] go to college?" I could not answer that young man that day, but I vowed I would try to do something about it.

In March of 2002 I had the opportunity as the chief law enforcement officer of Utah to support our legislature in becoming the second state to authorize in-state tuition to unauthorized immigrant children. HB144, sponsored by another courageous Republican lawmaker, David Ure, provided a wonderful boost to the morale of many good and talented youngsters including that young man from Rose Park Elementary School who came up to the Capitol as a high school senior to lobby on behalf of the proposed law. In his January 2002 State of the State address on the eve of the Salt Lake Winter Olympic Games, Governor Mike Leavitt held up a feather that had fallen from a dove during the Opening Ceremony of the 2000 Summer Olympics in Greece and spoke of his desire for Utah to "soar." Two months later he signed HB144, the Exemption from Nonresident Tuition, into law and gave flight to the dreams of flocks of Utah immigrant children. By doing so, he also deprived the gang-bangers of one of their chief recruiting pitches.

Every year since that date, a bill has been introduced to repeal Utah's in-state tuition law. Several years in a row, restrictionist outsiders came to Utah to testify that Utah's law was preempted by federal law. I'm proud of my Education Division Chief Bill Evans who boldly and convincingly testified and shared my official opinion that our law was in fact constitutional. Section 505 of the federal Illegal Immigrant Reform and Immigrant Reconciliation Act of 1996 (IIRIRA) prohibits states from providing higher education benefits to undocumented immigrants based on residence unless they give the same benefit to citizens. Under Utah law,

a U.S. citizen from Colorado or Idaho who attends high school in Utah and graduates equally gets to pay in-state tuition at a Utah college.

Utah educators, administrators, law enforcement professionals, immigrant and human rights activists, and most importantly, promising young students each year have defeated the aggressive and politically charged yearly opposition to our great equalizing law. Since 2001, twelve states have passed similar laws. Acting under its statutory authority, the Rhode Island Board of Governors for Higher Education voted unanimously to grant access to students regardless of immigration status to in-state tuition at the state's public colleges and universities. I speak around the country on comprehensive immigration reform and continue to call on the other 37 states to act in the best interests of justice, public safety, educational opportunity and community values, and grant equal access to higher education. They are not barred by IIRIRA. Unfortunately, because Congress failed to do its part and provide an opportunity for undocumented college graduates to move legally into the workforce, I cannot argue the tremendous economic benefit in-state tuition laws would create.

The DREAM Act

When Utah legislators were debating HB144, Congress was considering an important federal companion piece of legislation. The aptly named, bipartisan DREAM Act (acronym for Development, Relief, and Education for Alien Minors) S.1291 was introduced in the United States Senate on August 1, 2001 by Utah Republican Orrin Hatch. When he and Illinois Democrat Dick Durbin reintroduced it on July 31, 2003 as S.1545, he declared,

I rise today to introduce legislation that will help make the American dream a reality for many young people. [It] resolves immigration status problems that plague undocumented immigrants who came to our country as youths. It also removes barriers to education so that they are better equipped to succeed in our society. Each year, about fifty thousand young undocumented immigrants graduate from high school in the United States. Most of them came to this country with their parents as small children and have been raised here just like their U.S. citizen classmates. They view themselves as Americans, and are loyal to our country. Some may not even realize that they are here in violation of our immigration laws. They grow up to become honest and hardworking adolescents and young adults, and strive for academic as well as professional excellence.... Moreover, these young people have no independent way of becoming legal residents of the United States. In short, though these children have built their lives here, they have no possibility of achieving and living the American dream. What a tremendous loss to our society.⁶

The bill would have provided “conditional permanent resident status” to certain illegal individuals of good moral character who graduate from U.S. high schools, arrived in the United States as minors, and lived in the country continuously for at least five years prior to the bill's enactment. It also created an opportunity to qualify for permanent residency for those who “acquired a degree from an institution of higher education in the United States or [have] completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree

in the United States” or have “served in the armed services for at least 2 years and, if discharged, [have] received an honorable discharge.”⁷

Several more versions of the DREAM Act have been introduced unsuccessfully during subsequent Congresses, but despite overwhelming evidence of the tremendous social and economic benefits of the DREAM Act, our federal lawmakers have failed to pass it, just as they have refused to pass much needed just, pragmatic and comprehensive immigration reforms. This abject failure of our federally elected officials flies in the face of the principles and practices that made this “promised land” the “lamp beside the golden door” opened to the world’s “tired ... poor... huddled masses yearning to breathe free.” It is ironic that Congress’ failure to pass the DREAM Act can largely be attributed to a lack of education about the truth of its benefits and limitations. In this decade long debate, the truth has been the greatest casualty.

Any student doing a marginal high school research paper could convincingly document the truth about laws securing educational opportunities to unauthorized immigrant children . In a January 2012 report on state DREAM act type legislation, the National Conference of State Legislators stated,

*The bottom line is that our economic future depends on educating these young people. These young immigrants are key to our ability to counteract the serious demographic challenges we face. As baby boomers age, the number of retirees in the U.S. will swell. We are all aware that we can no longer compete with the rest of the world for low-wage jobs. We must raise the caliber of our workforce through higher education to have a chance to maintain a strong economy. Each person who attends college and obtains a professional job means one less drain on the social service (and possibly criminal justice) budgets of the state and an asset in terms of payment of taxes and the attraction to the state of high-wage employers seeking well-educated workers.*⁸

One would think that Senator Hatch’s 2001 appeal to the American Dream would be sufficient motivation for Congress to act, but as stated, extreme partisan politics has replaced constructive compromise in Washington. During this time of economic downturn, federal and state government should embrace the positive economic benefits of giving undocumented students the opportunity to pursue their dreams of youthful hope. UCLA’s North American Integration and Development Center analyzed a study by the Migration Policy Institute’s National Center on Immigrant Integration Policy of the income that would be earned by unauthorized immigrants who would be potentially eligible for the proposed DREAM Act benefits and concluded that those beneficiaries would earn from \$1.4 trillion to \$3.6 trillion over 40 years.⁹

The current DREAM Act of 2011, S 952/HR 1842 is not expected to go anywhere before the November election and will therefore have to be reintroduced in a future Congress. Interestingly, the Obama Administration announced a major policy change regarding the so-called “Dreamers” that has left many wondering what effect it will have on the 2012 election. But first it is instructive to review what factors led to this extraordinary executive action.

Punitive State Immigration Laws

In response to the federal government's failure to pass comprehensive immigration reform, including any laws addressing the issues of education and the aging population of undocumented children, city councils, and state legislatures began to pass laws dealing with the reality of millions of unauthorized immigrants residing in our communities. Frustrated constituents and harried legislators were lobbied by a well-organized campaign of misinformation and fear mongering by right-wing extremists, nativists, zero-population advocates and even some white supremacist elements into passing more and more punitive measures dealing with undocumented aliens. In 2010, the Arizona legislature passed SB 1070, which was quickly signed by newly elevated Governor Jan Brewer. Strong favorable polling numbers made GOP law makers around the country sit up and take notice. Soon copycat bills were popping up all over the country – Utah included. Most of these new laws were centered on “show-me-your-papers” mandates on local law enforcement officers who were essentially made de-facto ICE agents. Other provisions were stated to be intended to make life so miserable, it would force the illegal population to self-deport. These laws were passed with little consideration of the negative economic, public safety and social impacts on local communities. Most of the bills did not deal with children, or education directly and won't be discussed here, with one glaring exception.

In June of 2011, Alabama passed HB 56 which immediately became known as the “strictest illegal immigration law in the country” patterned after, but tougher than, Arizona's SB 1070. One of its most controversial provisions required public school officials to act as ICE agents and question the legal status of every new student and, in some cases, that of their parents. Writing in June of 2012, Dr. William Lawrence, Principal of Foley Elementary in Foley Alabama, declared that thirty years after *Plyler v Doe*, Alabama's children suffer as a result of HB 56. He wrote:

...When [HB 56] went into effect on September 29, the scene at my school was chaos. Many of our Latino children were arriving terrified. They worried their parents would be picked up and deported without ever getting a chance to say goodbye or make arrangements to see them again. That day, as my students came running off the buses in tears, it became clear to me that these children – almost all of whom American-born, U.S. citizens – were facing the brunt of the law. As parents came rushing to the school to withdraw their children, I was ashamed of what had been done...

On May 1, Assistant Attorney General Tom Perez sent a letter to Alabama's education department detailing the damage done by the law. Since the law went into effect, it has led to the tripling of Hispanic student absentee rates, 13.4 percent of Hispanic children withdrawing from Alabama public schools and Hispanic parents in Alabama being unable to participate in their children's education.

I've seen all this firsthand. The children in Alabama are in pain. They should not be suffering as an “unintended consequence.” The U.S. Supreme Court promised that all children will have equal access to public education. It's time our state legislature ensures that they do.¹⁰

Parts of the law, including the one requiring identification of public school children, were put temporarily on hold by a federal court during appeal. In December of 2011, Alabama Attorney General Luther Strange recommended that the legislature repeal certain provisions including the collection of immigration status of school kids. In May of 2012, the legislature passed a revised law, HB 658 which left in that notorious provision and was signed into law by Governor Bentley despite his veto threat and the fact he still had “concerns about the school provision.”

The Utah Compact – A Fresh Approach

After neighboring Arizona passed SB 1070 in early 2010, several conservative members of the veto-proof GOP majority in the Utah House and Senate announced that they would run an identical bill and redouble their efforts to repeal in-state tuition and the state “drivers-privilege” card issued to undocumented residents. Initial polls showed the majority of Utahns were buying into the hysteria and misinformation and supported a Utah version of the Arizona enforcement-only law. Mainstream Republicans, Democrats, immigrant and human rights advocates, law enforcement, business and religious leaders and even a powerful conservative think-tank, The Sutherland Institute, were alarmed and concerned by what appeared to be a head-long rush to join the anti-immigration lemmings scurrying over a cliff. We began to meet and quickly determined that opposition had to be more than a simple “Just Say No” to an Arizona style Enforcement-Only law. It was evident that reasonable alternatives had to be presented, and a concentrated effort undertaken to educate the public as to the truth about the impact of illegal immigration and the true negative impact and unintended consequences of enforcement-only punitive state laws.

A coalition of these diverse interest groups worked together to create a charter in the form of a concise statement of principles that would hopefully guide the legislature in debating and enacting any new laws related to immigration when the January 2011 session began. My Ninth-Great Grandfather arrived at Plymouth Plantation just ten years after the Mayflower Compact was signed off the coast of Massachusetts and so I was partial to calling our charter the Utah Compact. The Pilgrims, the ship’s crew and a few other non-religious immigrants had determined that before they set foot on this promising new land, they would agree to a simple statement of guiding principles and values of how they would run their community. So it was with the Utah Compact, a one-page “declaration of five principles to guide Utah’s immigration discussion.” Those principles were as follows:

1. **“Federal Solutions,”** which reiterated it was Congress’ responsibility to “strengthen federal laws and protect our national borders,” and urging state leaders “to adopt reasonable policies addressing immigrants in Utah.”
2. **“Law Enforcement,”** which emphasized respecting the rule of law and local “resources should focus on criminal activities, not civil violations of federal code.”
3. **“Families,”** which significant to this publication stated that we “oppose policies that unnecessarily separate families” and “champion policies that support families and improve the health, education and well-being of all Utah children.”
4. **“Economy,”** which urged a strong recognition that Utah is “best served by a free-market philosophy that maximizes individual freedom and opportunity,” and the “economic role immigrants play as workers and taxpayers.”

5. “A Free Society,” where immigrants are “integrated into communities across Utah,” and we “must adopt a humane approach to this reality, reflecting our unique culture, history and spirit of inclusion. The way we treat immigrants will say more about us as a free society and less about our immigrant neighbors. Utah should always be a place that welcomes people of goodwill.”

In short, significant and consequential support of key law enforcement, business and religious organizations, public opinion began to change almost overnight; and with educational forums, debates and positive media coverage, by the time the legislature convened, the majority of the public supported the Utah Compact approach. Utahns said they opposed a strictly punitive enforcement only bill; and emphasized that Utah’s values on family, faith, children, opportunity, and safety were values that should guide moderate, comprehensive, sensible, pragmatic, just, fair and compassionate immigration reform. Brave Republican legislators and Governor Gary Herbert listened to the people and were not dissuaded by the shrill extremist voices. As a result they forged a watered down enforcement bill and crafted other pieces of legislation creating, for example, a Utah guest-worker permit program that would bring undocumented workers out of the dark, keep their families together, pay them fair wages and tax their income until the federal government acts. Another bill created a multi-disciplinary Immigration Commission to study all future proposed legislation and make reasonable, fact-based recommendations to the policy makers. Furthermore, the threats by right wing anti-immigration activists and legislators to repeal in-state tuition and drivers privilege cards failed. Throughout 2011 the right-wing threatened to remove every Republican from office who voted for comprehensive reform and to repeal all of the moderate, comprehensive reform bills. Due to ongoing education and emphasis on the principles of the Utah Compact, no immigration bills were passed or repealed in the 2012 session and in the subsequent Utah GOP Convention and Primary, most of the extreme-right proponents of Arizona style punitive measures lost their campaigns for higher office. Those who voted for legislation consistent with the principles of the Compact survived their intra-party challenges and were re-nominated by the mainstream GOP voters.

I have been speaking around the nation about the Utah Compact to urge other states to follow our example. I have also hosted regional immigration reform symposia where I have referred to the significance of migrant workers to Utah and our Nation. When it was Utah’s turn to select what would go on its Utah quarter in the state series, the voters rejected the skiing and natural wonder motifs and settled on the historic driving of the Golden Spike in 1869 which every Utah school kid knows joined the transcontinental railroad at Promontory Summit. As part of the ceremony, a group of Chinese laborers who were largely responsible for building the Central Pacific line across the treacherous Sierra Nevadas, and a group of Irishmen, who were numbered among the migrant workers who built the Union Pacific rails across the Great Plains and the Rocky Mountains. These non-citizens shed their sweat, blood and tears, and many gave their lives, building the system which would catapult the United States into world industrial and economic prominence. The Golden Spike was engraved “May God continue the unity of our country as the railroad unites the two great Oceans of the world.” The driving of the Golden Spike, signified that people from all walks of life, ethnicity, race and national origin came together to join this great nation in the advancement of commerce and good will. And so it should continue to this day.

Federal Administrative Reforms

One of my responsibilities as attorney general after 2011 was to negotiate with the Obama administration, the Department of Justice and the Department of Homeland Security and its Immigration and Customs Enforcement, to try and get their approval of our Utah Guest Worker

Permit Program. My discussions all focused on encouraging the federal government to exercise what we in the law call “prosecutorial discretion,” which means that criminal justice and civil enforcement decisions are necessarily made based on prioritizing limited resources. Simply stated, our jails and prisons are overcrowded and we therefore lack the wherewithal to investigate and prosecute every single violation of the laws. When an officer lets you off with a warning for speeding instead of a ticket, you have just been the beneficiary of prosecutorial discretion.

I reminded DOJ officials that they didn’t have the resources to prosecute every employer in the country who hired undocumented workers, and urged them to exercise their prosecutorial discretion and not prosecute Utah employers who hire undocumented workers and pay them living wages, withhold taxes, treat their employees justly and conduct criminal background checks to guarantee to the feds that the employees are otherwise law-abiding. This would free them up to focus just on abusive employers who are victimizing and exploiting their undocumented employees. I spent hours trying next to convince DHS, ICE and USCIS officials to exercise prosecutorial discretion or “deferment of action” as they call it, and not deport a group of Utah workers who come out of the darkness and from under the table, don’t steal Social Security Numbers or commit any other crimes, pay taxes and who we can show are not replacing U.S. citizen workers. This would free valuable resources to focus on real criminal aliens.

I was delighted when in 2011 the Obama Administration announced that it would exercise prosecutorial discretion and only proceed with the deportations of the worst offenders, those with criminal records, etc. And in a wonderful declaration in recognition of the important principles behind the DREAM Act, Secretary Napolitano announced in 2012 that they would “defer action” on over 1 million undocumented young people who would be eligible for the DREAM Act by protecting them from deportation and providing them with work authorization. In announcing the new policy, Secretary Napolitano said:

Our Nation’s immigration laws must be enforced in a strong and sensible manner. They are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Indeed, many of these young people have already contributed to our country in significant ways. Prosecutorial discretion, which is used in so many other areas, is especially justified here.¹¹

For his part, President Obama described those eligible as, “young people who study in our schools, they play in our neighborhoods, they’re friends with our kids, they pledge allegiance to our flag. They are Americans in their heart, in their minds, in every single way but one: on paper.” He emphasized that the new policy “is a temporary, stopgap measure that lets us focus our resources wisely while giving a degree of relief and hope to... patriotic young people... It’s the right thing to do,” he said, then added, “There is still time for Congress to pass the DREAM Act this year.”¹² The Republican Presidential Nominee, Mitt Romney, later stated that, “If I’m president, we’ll do our very best to have that kind of long-term solution that provides certainty and clarity for the people that come into this country through no fault of their own by virtue of the action of their parents.”¹³

The president's actions and Romney's statements provide some hope to "DREAMers" that whatever outcome of the 2012 election, there will be renewed emphasis on providing educational opportunities and employment possibilities to an army of committed American children who want to give back to their country. One such group I've had the honor of working with isn't waiting.

Latinos in Action

At the end of the 2012 school year I attended a conference at the University of Utah where thousands of Hispanic junior high and high school kids sat enthralled as Mexican American Shuttle Astronaut Jose Hernandez told them of his own journey from harvesting fruits and vegetables to living in the International Space Station and urged them to "pursue your dreams!" He told the kids that with effort, dedication and education, they too could "reach the stars." The Latin American Herald Tribune recently reported that Hernandez said that it was "in the dusty beet fields near Stockton, with a hoe in his hands, that he discovered his 'fascination with the stars' and started to dream of being an astronaut. 'I remember when I was 5 or 6 and I went with my parents to the field at dawn. Everything was black, but we were far from the pollution of the city and I could see the stars very clearly,'" he said. Curiosity about space was forever sown in him at age 9, when he watched on a black and white television the last manned mission to the moon. 'When I saw the astronauts walking on the moon, right there I told myself, 'That's what I want to be,' and that's how my dream was born.'"¹⁴

As a member of the Board of Trustees of Latinos in Action, I get chills every time I hear the personal stories of young Latinos who discover that because they are bi-lingual and bi-cultural, they have a unique gift to share and can have a tremendous impact on others and add value to their communities. When the new school year starts, Latinos in Action will be in more than eighty schools in Utah and surrounding states. The program involves classroom study, volunteer service and cultural arts development. Once a week, a dozen or so Granger High School students translate and record books for elementary school kids to listen to, and they also visit Monroe Elementary School where they provide, one-on-one tutoring for children struggling with their new language and location. They help with Math and English translation and pronunciation.

Latinos in Action was founded by educator Jose Enriquez, a native of El Salvador, who was recently awarded his Ph.D. He believes, and has proven, that social experiences are important to the success of minority students. In a May 2011 article in the Provo Daily Herald, correspondent Hilary Hendricks interviewed several LIA students. In quoting Moises Mardones, she said that he didn't speak a word of English when he arrived in the United States several years ago, "Luckily I had friends who helped me with my school work," the Springville High School sophomore said. Now fluent in both English and Spanish, Mardones is doing well in school and plans to study dentistry or physical therapy one day." Moises and seven others LIA students at Springville will receive a total of \$96,000 in scholarship funds when they graduate. She quoted Dr. Enriquez:

"So many Latino students are lost in the transition from junior high to high school or from high school to college," he said. "If we can have students mentoring each other at those transitional points, we can retain those Latino students, and they will go on to college. Through serving others, they are giving back to the community and helping themselves as well. When younger students see them as positive, professional role models, they are breaking down barriers to Latino success."¹⁵

The results are breathtaking. Since Dr. Enriquez began the program in his high school in 2001, every active member of LIA has earned a high school diploma – especially when compared to the fact that twenty-six percent of Latino youth in Utah drop out. The vast majority of LIA graduates go on to attend college – which is the number one goal of the program.

The success stories span the state of Utah and spread across the Rocky Mountain States. KSL anchor Nadine Wimmer went on to report about Latinos in Action in the rural Central Utah town of Delta:

Delta's simple partnership has had a dramatic impact on a tough education problem in Delta, and the benefit extends far beyond the schools. The community used to face a struggle familiar to other schools: Hispanic reading scores lagged by half of their Caucasian peers; 10 percent of seniors graduated and none of them went on to college. Teachers got together to try to figure out what they could do to close the gap, Delta Elementary School Principal David Noah explained. They came up with a simple approach: have high school students read with elementary school students.¹⁶

Anyone who speaks out against in-state tuition or the DREAM Act or who refer ignorantly to children born in this country as “anchor-babies,” would be well served to attend and observe a Latinos in Action class or service project. In one such classroom at Hillcrest High School in Midvale Utah, I was impressed at the English proficiency of all of the forty students, as well as their excitement about education and their love of America. I asked them what the “action” part of the program meant to them. The response was quick, enthusiastic and genuine and could be summed up in one word: “Service.” The kids reiterated that they loved America and they wanted to give back. Many of them said in their perfect English that this is the only country they know and they want to gain an education and use it to benefit others. They want to dream the same as all young people do, and in this blessed nation have the ability to achieve those dreams.

Conclusion – The Promised Land

Education continues to be the vehicle by which immigrants and natives alike have dared to dream youthful hopes and reach the stars. At the turn of the Twentieth Century, a young girl passed beneath the New Colossus and entered New York Harbor. Her family had dreamed of coming to America where education was free. Mary Antin later wrote the story of her experience and titled it, *The Promised Land*. In this beautiful excerpt, she poignantly expressed what millions of people in this country still dream of and hope and pray and work for.

Father himself conducted us to school. He would not have delegated that mission to the President of the United States. He had awaited the day with impatience equal to mine, and the visions he saw as he hurried us over the sun-flecked pavements transcended all my dreams... If education, culture, the higher life were shining things to be worshipped from afar, he had still a means left whereby he could draw one step nearer to them. He could

send his children to school, to learn all those things that he knew by fame to be desirable... he knew no surer way to their advancement and happiness.

So it was with a heart full of longing and hope that my father led us to school on that first day. He took long strides in his eagerness, the rest of us running and hopping to keep up... At last the four of us stood around the teacher's desk; and my father, in his impossible English, gave us over in her charge, with some broken word of his hopes for us that his swelling heart could no longer contain. I venture to say that Miss Nixon was struck by something uncommon in the group we made, something outside of Semitic features and the abashed manner of the alien... This foreigner, who brought his children to school as if it were an act of consecration, who regarded the teacher of the primer class with reverence, who spoke of visions, like a man inspired, in a common schoolroom, was not like other aliens, who brought their children in dull obedience to the law; was not like the native fathers, who brought their unmanageable boys, glad to be relieved of their care. I think Miss Nixon guessed what my father's best English could not convey. I think she divined that by the simple act of delivering our school certificates to her he took possession of America.¹⁷

Endnotes

1. Eugene Field, *The Dreams*, http://famouspoetsandpoems.com/poets/eugene_field/poems/9511.html.
2. *Brown v. Board of Education*, 347 U.S. 483 (1954) at 494-5, available at http://scholar.google.com/scholar_case?case=12120372216939101759&q=Brown+v.+Board+of+Education,+347+U.S.+483+%281954%29&hl=en&as_sdt=2,6&cas_vis=1.
3. *Plyler v. Doe*, 457 U.S. 202 (1982), http://scholar.google.com/scholar_case?case=12010798883027065807&q=Plyler+v.+Doe+decision&hl=en&cas_sdt=2,6&cas_vis=1.
4. *Plyler v. Doe*, Id. at 223.
5. Id. at 230.
6. Congressional Record, 108th Congress (2003-2004), <http://rs9.loc.gov/cgi-bin/query/F?r108:36:./temp/~r108k-CFUs:e543717>.
7. S.1545, <http://www.gpo.gov/fdsys/pkg/BILLS-108s1545is/pdf/BILLS-108s1545is.pdf>.
8. National Immigration Law Center, *Basic Facts about In-State Tuition for Undocumented Immigrant Students*, January 2012, <http://www.nilc.org/basic-facts-instate.html>.
9. North American Integration and Development Center, UCLA, *No DREAMers Left Behind, The Economic Potential of DREAM Act Beneficiaries*, p.3, http://naid.ucla.edu/uploads/4/2/1/9/42192226/no_dreamers_left_behind.pdf.
10. Dr. William Lawrence, *Thirty Years After Plyler v. Doe, Alabama's Children Suffer*, ACLU Blog of Rights, 15 June 2012, <http://www.aclu.org/blog/immigrants-rights/thirty-years-after-plyler-v-doe-alabamas-children-suffer>.
11. Department of Homeland Security 15 June 2012 Press Release, <http://www.dhs.gov/news/2012/06/15/secretary-napolitano-announces-deferred-action-process-young-people-who-are-low>.
12. The White House 15 June 2012 Press Release, <http://www.whitehouse.gov/the-press-office/2012/06/15/remarks-president-immigration>.
13. Maggie Haberman, *Romney: Obama immigration move isn't 'long-term' solution*, Politico, 15 June 2012, <http://www.politico.com/blogs/burns-haberman/2012/06/romney-obama-immigration-move-isnt-longterm-solution-126322.html>
14. Latin American Herald Tribune, *Astronaut Urges Young Latinos to "Pursue Your Dreams"* <http://www.laht.com/article.asp?ArticleId=393203&CategoryId=12395>.
15. Hilary M. Hendricks, *Springville High's Latinos in Action earn \$96K in scholarships*, Daily Herald, 27 May 2011, http://www.heraldextra.com/news/local/south/springville/article_1de5487d-2dff-5fc9-b49f-6b18bd1ec4f7.html.
16. Nadine Wimmer, *Reading program helps to close gap in Delta community*, KSL, 23 November 2011, <http://www.ksl.com/?nid=960&sid=18212338>.
17. Mary Antin, *The Promised Land*, Chapter IX, Boston & New York: Houghton Mifflin Company, 1912, <http://digital.library.upenn.edu/women/antin/land/land.html#9>.



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

FAMILIES ON THE FRONT LINES:
How Immigration Advocates Can Build
a Bridge Between the Immigration &
Child Welfare Systems

by

Lindsay Marshall
Executive Director
The Florence Project

Keeping families together is a common rallying cry among advocates pushing for more just and humane immigration policies. Yet, with toxic dialogue surrounding the immigration debate, the real impact of immigration enforcement on families is rarely illuminated and discussed. The family unit has always been relevant to immigration policy and migration patterns. Anyone who has seen historical images of Ellis Island can picture a travel weary family huddled together in travel worn clothing, perhaps the image is of a mother with her arms around her young children. And today, most migrants cross our southern border to find work in order to send money home to support family members, or come to reunite with parents, spouses, siblings, or children who made the journey themselves years before. Legally speaking, familial relationships also remain a principal way for individuals to gain lawful immigration status in the U.S. as family members may petition for relatives to obtain status based on their own.

Whether acknowledged or not, the family unit must also stand front and center in any examination of the human impact of current immigration enforcement initiatives. Mixed-legal status families are extremely common in the United States. It is conservatively estimated that approximately 5.5 million children, most of whom are U.S. citizens, are living with at least one undocumented parent who is at risk of apprehension by Immigration & Customs Enforcement, or ICE, the enforcement division of the Department of Homeland Security.¹ As immigration enforcement continues to intensify – with over 400,000 immigrants estimated to be deported in fiscal year 2012 - the axiom of “family separation” plays out in its most literal sense when parents are forcibly separated both physically and legally from their U.S. citizen children, sometimes permanently.

The Florence Immigrant & Refugee Project, where I work in Arizona, assists thousands of parents each year who are detained in remote immigration detention facilities and facing civil deportation court proceedings without the right to public counsel. While our focus is providing legal education, screening, and assistance with immigration cases, time and time again we meet parents in detention who express urgent concern about the whereabouts and well-being of their young children. As we began to dig into more individual child custody cases, we learned that many of the children of detained parents were in highly precarious living situations or were already in the child welfare system as a result of their parent being in immigration custody. In most cases it also seemed that no one in the child welfare system knew where the parent was located and dependency cases could move forward without their participation.

To illustrate, one recent case involves a young parent, “Maria”, and her three year old daughter “Briana”, who was born in the United States. Maria has sole custody of Briana, after her father struggled with drug use and practically speaking abandoned her daughter. Maria had been living in Phoenix working at a convenience store and taking care of Briana. Maria came to the United States in 2003 and was placed into removal proceedings after she was pulled over for a traffic violation and it was revealed that she did not have legal immigration status. She ended up detained in Eloy, Arizona, where our staff screened her for relief from deportation through our Legal Orientation Program.¹ When we met with Maria she knew her daughter was in Child Protective Services (CPS) custody because there was no one available to care for Briana. As Briana was placed in a foster home, dependency proceedings were initiated and Maria was assigned an attorney² to represent her interests in family court. While in detention, Maria had not received any communication from her daughter’s CPS case manager or her attorney. She didn’t know the status of Briana’s dependency case or how she could participate in any court hearings since she was detained. She was given a bond to be released from immigration detention but could not afford to pay the bond, which was several thousand dollars. As she presses forward with her immigration case to prevent her deportation to Mexico and faces months of

detention she is steadfast in her desire to maintain her parental rights and continue to raise her daughter if she is able to stay in the United States.

As the Florence Project has struggled over the last several years to assist parents like Maria with navigating both the immigration and child welfare systems, we have asked many questions and have confronted many systemic obstacles. This article shares the approaches we have taken in working to bridge the two systems, reflects on lessons learned, and makes recommendations based on our experience in Arizona. Despite the challenging and often frustrating nature of this work, this article's framework is positive and optimistic. If we can make notable progress over a relatively short period of time in a state with an enforcement climate like Arizona, the future should be considered bright and ripe for change throughout the country.

Focus on Due Process

Like any non-profit legal services organization, the Florence Project operates with severely limited resources. Our small staff of sixteen supports close to ten thousand clients each year in a complex legal landscape that is rapidly changing. When working with a high volume of clients in a detained setting, our one-on-one interactions with individual clients tend to be brief and narrowly tailored to the client's deportation defense case. This is not to suggest that we don't strive to see and advocate for our clients holistically, but we recognize the very limited nature in which we "know" the people we serve. Because they are detained, we don't generally see our clients interact with their family or have them come into our office before or after their work day, and aren't exposed to the complex everyday lives they led before coming into immigration custody. The scope within which we work with our clients is quite narrow.

As such, when the Florence Project initially began delving into the child custody issues of some of our clients it was easy to become sympathetic and angry about what we were hearing. A client may tell us they were a model parent who made one error in judgment by, for example, leaving her youngest child at home alone while she worked a night shift. It was therefore easy to direct our frustration at the child welfare system – the inner workings of which we know little - and bemoan the unfairness of a perfectly fit parent at risk of permanently losing her child.

Despite these initial reactions and temptations, it became important for us to quickly take a step back and realize our limitations both in terms of resources and knowledge. As immigration practitioners and advocates, we are not family law attorneys and are not even in a position to access or digest all of the facts involved in any dependency action. While some cases seem clear cut on the merits (where, for example, the only basis for abandonment is the parent being picked up by ICE) and others are more complex (where there may be a history of CPS involvement with the family) our commitment to certain basic tenants of due process should be the standard for all detained parents. Focusing on compelling substantive cases is powerful but it tends to create more divisions and tensions around talking about this issue in a more fundamental way.

Our focal point therefore quickly became and remains due process and the fundamental importance of parents having the opportunity to be involved in the dependency actions pertaining to their children, despite being in immigration custody. When stakeholders in the child welfare system do not know where the parent is located we see enormous obstacles to the parent being afforded due process in family court. Our work has therefore centered on remedying this deficiency of information about how to find parents in immigration custody, their rights in the immigration system, and their ability to participate in dependency proceedings from

immigration detention. When reaching out to a parent's case manager or attorney our message is therefore not "this mother deserves to be with her children!" but is instead "this mother is at the Eloy Detention Center and needs to be included in the dependency court process, here are tools for you to ensure this occurs." We focus our energy on practical points of access and information sharing instead of trying to navigate our way through the merits of a parent's dependency case with limited information.

Focusing on due process ensures our work is concrete and is aligned with our organization's mission and our resource limitations. It separates the procedural and substantive issues and brings clarity and focus to our communication with child welfare stakeholders. In addition to opening more doors, it has also enabled us to push back when appropriate since all of the stakeholders seem to agree that a parent has the right to be party in her child's dependency proceedings.

Perhaps most importantly, this approach is also consistent with what we are asking child welfare stakeholders to do themselves, which is to not make assumptions about parents based on limited information outside one's area of expertise. We have seen how dangerous novel interpretations based on a lack of information or a quick judgment can be. At the practitioner level, it happens when a parent's family court attorney assumes the long term resident parent will automatically be deported because they were picked up by ICE, not knowing they have the opportunity to argue a case in front of an immigration judge and may qualify for relief from deportation. At the court level, it has occurred in dependency actions where family court judges may skip the fitness of the parent analysis and move directly to considering whether it is in the best interests of the U.S. citizen children to grow up in the United States or their parent's native country with the parent.² Assumptions based on misinformation or limited information can unjustly threaten family unity in both systems.

The Power of Information Sharing

This is where information sharing becomes a vital tool for building bridges and assisting immigrant parents. As immigration practitioners initially confronted with detained parents desperate for help with navigating the child welfare system we felt as though we were stumbling in the dark. To try to retrieve helpful information and advocate for parents, we started making calls in individual cases to CPS case workers and attorneys assigned to represent parents in their child's dependency action. In those interactions, we also learned what little information these players had about the immigration system. Most thought – and sometimes stubbornly held onto the belief that – if a parent was "in immigration" they were on a fast track to deportation and had no chance of lawfully remaining in the United States. Others thought parents were already deported and were shocked to know they were actually detained an hour away and had the opportunity to see a judge to raise a case for relief from deportation. In these early calls, we would explain the overall immigration court and detention process and the parent's specific case, trying to give them a sense of the timelines and the limitations the parent was facing from detention. Conversations focused on practical information such as parents' ability to receive mail and their language and literacy abilities, as well as their ability to make phone calls and receive visitors from detention. In turn, we learned about the status of their dependency case and whether there were upcoming hearings or reunification plans for parents to try to comply with from detention. Our main goal in these conversations has and continues to be to connect the parent's attorney with her client and clarify that the parent is not yet deported and needs to be involved in the dependency action as best as she can from detention.

From these early experiences with individual cases it quickly became clear that developing broader resources for both immigrant parents in detention and child welfare stakeholders would be useful. This desire to develop resources opened many doors as lawyers and social workers in the child welfare system face many of the same resource obstacles we face at the Florence Project. We first developed a very basic guide about the detention and deportation system and the nuts and bolts of locating a parent, setting up visitation, and limitations in detention and began distributing it to CPS case workers and attorneys in individual cases. This guide allowed us to begin to have broader conversations and initial meetings with local CPS offices to introduce it as a resource and discuss the larger issue of working with immigrant parents. Expecting some resistance to a discussion about immigration issues, we were surprised that our audience was much more receptive when we focused the conversation on our ability to serve as a resource and the exchange of information. We also used these meetings to ask our own questions in preparing a comprehensive packet for detained parents about the dependency court process. While there is no doubt still much work to be done to more proactively implement changes with regards to how CPS deals with these sensitive cases, we have succeeded in forming an initial relationship and a portal through which to share basic information that can be vital for parents isolated in detention.

After developing resources, we began simply talking locally about this issue with anyone we could think of, especially contacts in child and family advocate networks, family law attorneys we knew through handling Special Immigrant Juvenile Status³ cases, and individuals affiliated with the Arizona State Bar. It seemed everyone agreed in the power of information sharing as well as the need to provide training for court appointed attorneys for parents, CPS representatives, and even family court personnel about the immigration system. By that point we had established ourselves as an ideal organization to provide that type of training and were later integrated into our state bar mandatory ethics training for court appointed attorneys and into periodic court improvement program trainings. We have also subsequently been invited to train at relevant local family law conferences and Arizona's annual judicial conference for all state court judges. The training presented in all forums is essentially the same and presents an "Immigration Law 101" for child welfare stakeholders and explains the detention and immigration court process and challenges parents face when trying to participate in dependency proceedings from detention. The reception to these resources and trainings has been overwhelmingly positive and has only strengthened our growing relationships, which in turn serves us in assisting detained parents in individual cases.

Creating Accountability through Exposure and Advocacy

It was through our journey that we discovered how exactly bridging these two systems can assist immigrant parents in protecting their parental rights while in detention. Most critically, we've experienced that building this bridge exposes the extremely restrictive and punitive circumstances immigrant parents face in civil immigration detention. The immigration detention system still largely operates in secrecy and parents are geographically isolated in prison facilities in rural locations such as Florence and Eloy, Arizona. Thousands of immigrant parents are administratively detained in nearly 300 of these facilities around the country on any given day. By simply making child welfare stakeholders aware of where parents may be located we have opened up the detention system in Arizona and prompted more inquiry about its operation and the conditions parents face, including the limited access to counsel (which stands in stark contrast to the dependency system), lack of programming in detention (making complying with court ordered reunification plans from detention nearly impossible), and day-to-day challenges including extremely expensive phone calls and restricted visitation and access to personal materials.

With regards to family unity, ICE's aggressive enforcement practices cause consequential damages for not only the parent in custody but for her U.S. citizen children and the larger child welfare system. Yet in our experience ICE is systemically deficient in its acknowledgement of these problems and the relatively simple measures it could take to minimize them while still achieving its enforcement goals. Opening the immigration enforcement and detention regime up to practitioners in the child welfare system will necessarily result in ICE being held more accountable for the consequential impact of its practices on families and children, if only at first in a handful of individual cases. For example, when parties to a dependency action become aware that the parent is in immigration detention, the attorney can make a request for ICE to transport the parent to appear in a critical hearing in person. Though routinely denied, accommodations can and have been made in detention for the parent to then appear by telephone. This step forward in one case eases the path for the next parent to make a similar request of ICE and the detention facility. Some family court judges have also experimented with their subpoena power to push back and seek the parent's participation in person and attorneys may initiate requests for prosecutorial discretion⁴ or release from ICE custody on humanitarian grounds if termination of parental rights is imminent.

We have seen firsthand that when child welfare stakeholders are knowledgeable about the immigration system and involved they can be instrumental in advocating for parents and holding ICE more accountable on issues of family separation. This is especially critical in light of the reality that despite public announcements to the contrary, ICE continues to prosecute and deport immigrant parents with U.S. citizen children on a regular basis.³

Recommendations

- **Increase and Expand Legal Resources and Attorney Expertise to Encompass Both Immigration and Family Law.**

Rarely is it popular to make a recommendation that a system needs more lawyers but when it comes to bridging the immigration and child welfare systems, having lawyers with expertise in both systems is critical. While focusing on due process and sharing information has allowed us to make progress, ideally the Florence Project would be in a position to staff an attorney who could specialize in both immigration and family law and have the time and resources to represent parents in both proceedings. By assisting parents across both systems, this attorney could become knowledgeable about and involved in the substantive dependency actions and advocate on behalf of the parent and concurrently raise child custody issues more directly in immigration court as grounds for relief from deportation or release on humanitarian grounds. Relatedly, developing some immigration expertise within the family law bar could better serve immigrant parent clients both in the community and in detention and could also enhance the number of Special Immigrant Juvenile Status visas provided to abused, abandoned, and neglected immigrant youth in the child welfare system. As awareness of this issue continues to increase, it would be ideal if more law students and young attorneys were drawn to developing expertise in the overlap of these systems to more holistically assist immigrant families. Methods for cultivating this expanded expertise could include developing fellowships and funding opportunities for young lawyers to work at legal service organizations working with immigrant parents like the Florence Project or expanding the national Legal Orientation Program for immigrants in detention to include assistance with ancillary legal issues including child custody issues and dependency.

- **Provide Practical and Comprehensive Immigration Related Resources to State Child Welfare Stakeholders.**

Similarly, state child welfare systems are underfunded and working with limited resources. There is little desire or incentive for CPS case workers to delve into the world of navigating the immigration enforcement system, which should not be surprising. If Arizona had a designated resource within the child welfare system or a contact for child welfare practitioners to call upon for assistance with tasks like locating parents in immigration custody and setting up visitation or case reunification planning, parents would be better served and less likely to disappear from the system. This contact could also serve as a state-wide resource for trainings and information sharing for parents, immigration practitioners, and child welfare practitioners. Forums for information sharing can continue to flourish and take the form of multi practitioner task forces, websites with helpful information, and ongoing court improvement training programs.

- **Use Partnerships Between Immigration and Child Welfare Advocates to Promote Policy and Legislative Changes that Foster Family Unity.**

Immigration and child welfare advocates – both locally and nationally – should also continue to strategically partner to work toward policy and legislative changes that promote family unity. This joining of forces brings this compelling issue into the spotlight and puts much needed pressure on ICE to curtail enforcement practices that unnecessarily separate parents from U.S. citizen children. On a micro level, these partnerships can take the form of requests for release from detention or supporting raising defenses to removal on behalf of individual parents at risk of permanently losing custody of their children. On a macro level, they can include outreach to legislative officials, strategic media campaigns, raising the profile of this issue among respective immigration and child welfare networks, and developing and pushing alternative policy and legislative recommendations at the state and national level such as Senate Bill 1064 (Reuniting Immigrant Families) in California⁴ and the Humane Enforcement and Legal Protections (HELP) for Separated Children Act⁵ and Help Separated Families Act⁶ nationally.

Conclusion

The immigration enforcement system's devastating impact on immigrant families continues to resonate loudly among immigration practitioners and advocates. Following individual cases into the child welfare system may feel like moving into dangerous uncharted territory. It most certainly is. Yet, building bridges between the immigration and child welfare system can result not only in protecting the due process rights of parents in detention but can help pave the way to a less destructive and more humane immigration enforcement system. Based on our progress thus far in Arizona, we believe it is well worth the journey.

Endnotes

1. Terrazas, A. & Batalova, J. (2009). *Frequently Requested Statistics on Immigrants and Immigration in the United States*, DC: Migration Policy Institute.
2. Yablon-Zug, M. (2012), at 28, *Separation, Deportation, Termination*, Boston College Journal of Law & Social Justice Vol. 32. See also *In re Angelica L.*, 767 N.W.2d 74, 94 (Neb. 2009); *Anita C. v. Superior Court*, No. B213283, 2009 WL 2859068, at *9 (Cal. Ct. App. Sept. 8, 2009).
3. A report to Congress released on March 26, 2012 indicated that in the first half of 2011 ICE removed nearly 46,686 parents of U.S. citizen children. See Department of Homeland Security, Immigration & Customs Enforcement (2012), *Deportation of Parents of U.S.-Born Citizens: Fiscal Year 2011 Report to Congress Second Semi-Annual Report*.
4. CA Senate Bill 1064 was introduced in 2012 by Senator Kevin de León. See <http://sfreentry.com/wp-content/uploads/2012/06/SB1064-information.pdf>
5. S. 1399 and H.R. 2607 were introduced in 2011 by U.S. Senator Al Franken (D-MN) and U.S. Representative Lynn Woolsey (D-CA). See “Humane Enforcement and Legal Protections (HELP) for Separated Children Act.” First Focus Campaign for Children Fact Sheet, July 2011. <http://www.ffcampaignforchildren.org/>
6. H.R. 6128 was introduced in 2012 by U.S. Representative Lucille Roybal-Allard. See “Help Separated Families Act.” First Focus Campaign for Children Fact Sheet, July 2012. <http://www.ffcampaignforchildren.org/>



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

**PROTECTING THE FUTURE OF
TRIBAL COMMUNITIES:**
Ensuring Compliance with
the Indian Child Welfare Act

by

Thalia González, J.D.

Assistant Professor of Politics
Occidental College

The Indian Child Welfare Act (“Act”), passed in 1978, was a response to the historical struggle of Native Americans against the governmental destruction of tribes, families, and culture.¹ At its core the Act was designed to remedy a long history of abuses, promote tribal sovereignty, strengthen tribes’ roles in child welfare, and protect the best interest of Native American children. The congressional findings at the beginning of the Act stating, “there is no resource that is more vital to the continued existence and integrity of Indian tribes” underscored the significant and unique nature of the legislation to the protection and promotion of child and family well-being.²

The congressional approach to remedying the vast problems of widespread dislocation of Native American children was multi-faceted. Acting under its plenary powers,³ Congress created various jurisdictional, procedural, and substantive protections governing child welfare in broadly defined child custody proceedings.⁴ Though there are inconsistencies in the application and implementation of the Act’s jurisdictional, procedural, and substantive protections, states such as California, Colorado and Nevada have passed specific legislation to allow for tribal perspectives to be heard in status offense proceedings⁵.

In states that have not adopted laws, court rules, or policies incorporating the Act’s protections in status offense proceedings involving Native Americans has led to increased contact of these children with the juvenile justice system, a failure to provide culturally competent services to Native American children and families, increased separation of Native American children from their families and tribes, and a lack of coordinated action by state courts, state child welfare agencies, advocates, and practitioners. Further, even in those Southwestern states which have passed laws or policies applying the Act in status offense proceedings, Native American status offenders continue to be removed from their homes and sent to residential facilities⁶ such as detention centers, shelters, reception/diagnostic centers, long-term secure facilities, ranch/wilderness camps, group homes, boot camps or other out-of-home facilities.⁷ This legal reality means much is at stake for a Native American child facing a status offense charge.

The Social and Economic Realities for Native American Children and Families in the Southwest

In the United States there are 566 federally recognized Native American tribes.⁸ In 2010, 647,321 Native American children resided in the United States.⁹ According to the most recent census data nearly one-third of Native American children (213,205) live in the Southwest (Arizona, California, Colorado, Nevada, New Mexico, Texas and Utah).¹⁰ Of these states, Arizona represents the second largest population of Native American children across the United States with a reported 82,219 children¹¹ and from 2000 to 2010 Texas was one of three states that had the largest increase in population of Native American children (1,411).¹²

The social reality for Native American children and families living on reservations, as well as those living off-reservation is one of persistent and entrenched socio-economic problems, despite the economic gains of recent years. Native American children and their families living on tribal land face high rates of poverty, unemployment, family violence, infant mortality, suicide, and alcoholism.¹³ Within the total population of people claiming Native American identity in 2000, almost two-thirds lived outside reservations, Alaska Native villages or other trust land.¹⁴ As the National Urban Indian Family Coalition reported, some of the largest urban Indian populations occur in cities across the Southwest.¹⁵ When comparing urban Native American populations to other populations, it has been consistently found that Native American pop-

ulations have higher poverty and unemployment rates, are less likely to have a high school diploma, are three times more likely to be homeless, and have significantly higher rates of alcohol-related deaths.¹⁶ In fact the overall poverty rate for urban Native Americans is higher than for any other population in the United States.¹⁷

When considering poverty in the context of children, Native American children are between six and nine times more likely than white children to live in these communities.¹⁸ Across the United States thirty-nine percent of Native American children under the age of five live in families below the poverty threshold, nearly twice as high as the percentage for the total United States population (21 percent).¹⁹ Although there are areas of concentrated poverty across the country, children in Southwestern states are most likely to live in these disadvantaged areas.²⁰ For example, New Mexico (20 percent), Texas (17 percent) and Arizona (16 percent) represent some of the highest rates of poverty across the United States.²¹ Children living in areas of concentrated poverty are also more likely to experience harmful levels of stress and severe behavioral and emotional problems. Consider that the suicide rate for Native American children is nearly twice that of any other ethnic group²² and fifty percent of fourth grade Native American children read below the basic level.²³

Native American children are also more likely to be the subjects of child abuse and neglect proceedings than the general population.²⁴ Studies show that Native American children are overrepresented in foster care at more than 1.6 times the expected level and in some states they account for more than half of all foster care youth.²⁵ Native American youth are also significantly overrepresented in the juvenile justice system.²⁶ For example, custody rates for Native American children were 2.6 percent higher than for white youth²⁷ and they were nearly 3.5 times more likely to have their cases result in confinement than white youth.²⁸ In 2008, it was documented that Native American children are approximately thirty percent more likely than white children to be referred to court,²⁹ ten percent more likely to be detained awaiting trial, and ten percent less likely to receive the comparatively lenient measure of diversion or the second chance of probation.³⁰ Further, Native American children are fifty percent more likely than white children to receive the most punitive measures, namely out-of-home placement after adjudication or waiver to the adult criminal justice system.³¹ Indeed, 130 adjudicated status offense cases involving Native American children resulted in out-of-home placement in 2008.³²

Native American children face significant challenges that stem from a unique set of circumstances that influence the social, economic, and legal realities they experience. In order to improve child well-being and break the cycles that push children into the foster care and juvenile justice systems, policymakers must be committed to ensuring that all Native American children, families, and tribes are afforded the full jurisdictional, procedural, and substantive protections of the Act. This legislation has been considered one of the boldest examples of federal policies favoring self-determination and sovereignty³³ and only through innovative reform and a clear commitment to continued improvement in implementation can states guarantee that both the intent and the language are met.

The History and Purpose of the Indian Child Welfare Act

For decades Native American families suffered from the federal and state child welfare practices that resulted in removals of Native American children at extremely high rates when compared to rates of removal for other children.³⁴ Collectively, such actions often led to the loss of in-

dividual tribal languages and customs, disruptions of Native American families, and serious challenges for children attempting to reintegrate into their tribal settings. Beginning in 1973, the U.S. Senate Select Committee on Indian Affairs began to receive reports that an alarmingly high percentage of Native American children were being removed from their natural parents, predominantly through the actions of state governments and private agencies.³⁵ In addition to the disproportionately high number of Native American children being placed in foster or adoptive homes, the testimony established that Native American family breakups frequently occurred as a “result of conditions which [were] temporary or remedial and where the Indian people involved [did] not understand the nature of the legal actions involved.”³⁶

Following intensive investigation and reports, Congress held hearings on the topic of Native American child welfare from 1974 through 1978 to investigate the extent to which current child welfare policies undermined tribal survival through unwarranted removal of Native American children. These hearings heightened national sensitivity about Native American culture and its preservation through families and children. The 1974 congressional testimony of William Byler, executive director of the Association on Indian Affairs, concluded that, “[t]he wholesale removal of children from their homes, we believe, is perhaps the most tragic and destructive aspect of Indian life today.... It is clear then that the Indian child welfare crisis is of massive proportions and affecting the people at a more severe rate than non-Indian people.”³⁷

In 1978 Congress developed legislation to protect Native American children from unnecessary removals and to provide strict requirements for states when they removed these children from their homes. The Act is considered to be the most significant federal law governing Native American children, as it established protections for these youth and their tribes and ensured that “Congress through statutes, treaties, and the general course of dealings with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources.”³⁸ In the Act, Congress articulated a clear statement that preserving Native American families by ensuring that Native American children remain in homes reflective of their unique native cultures and values is in their best interest and the best interest of the tribe.

How the Indian Child Welfare Act Protects Native American Children, Families and Tribes

For Native American communities, no aspect of sovereignty is more important than protecting the well-being of children. Under the Act, self-determination includes the right to oversee how families experiencing problems are treated, and if necessary, to ensure the protection of Native American children. The jurisdictional provisions of the Act implement the congressional view that tribes must maintain the power to decide matters that involve the removal of Native American children from their homes. In placing limits on the power of state courts to maintain exclusive jurisdictional control over Native American children was recognition of the key role that courts historically, and arguably contemporaneously, play in removing Native American children from their homes. Under §1911(a) the Act provides for exclusive tribal jurisdiction over child welfare and adoption proceedings involving Native American children³⁹ domiciled or residing on their tribal reservation or who are wards of tribal court.⁴⁰ The exclusive jurisdiction provision is a clear statement of tribal authority.

Given that a majority of Native Americans no longer reside on reservation or trust lands, the Act’s provision for transfer and concurrent state jurisdiction in cases involving Native American children must be given significant attention. The concurrent tribal-state authority creates

what has been termed “presumptive tribal jurisdiction.”⁴¹ Section 1911(b) requires state courts to transfer child custody proceedings to tribal court upon petition of a parent of the child’s tribe, unless either parent objects or the court finds good cause to the contrary.⁴² Despite this “presumptive” tribal jurisdiction, state courts continue to exercise jurisdiction in high numbers.⁴³ This is particularly true in cases involving status offenses or juvenile delinquency.

If a state court does not transfer jurisdiction to a tribal court, the Act places a heightened duty on the state to avoid removal of the child from the home by ensuring that active efforts⁴⁴ are made to reunify the family and that preference for out-of-home placements is given first to the extended family, then to tribal and other Native American homes.⁴⁵ The Act also establishes minimum federal standards of evidence, including testimony of expert witnesses with knowledge of tribal culture, before a state court may remove a Native American child from his or her home.⁴⁶ States must maintain records of each state court placement of a Native American child,⁴⁷ as well as evidence of efforts made to comply with the Act’s placement preferences.⁴⁸

The Act also provides notice requirements for the parents and any person who has legal or temporary custody (1) if the court has reason to know the proceedings involve a Native American child,⁴⁹ and (2) if the tribe or Indian custodian has a right to intervene in such proceedings⁵⁰ or a right to court-appointed counsel.⁵¹ Indigent parents or custodians are entitled to court-appointed counsel⁵² and to rehabilitative services designed to preserve the family.⁵³ Congress also imposed heightened burdens of proof before state courts can order the removal of Native American children from their homes. For example, foster care placements must be based on “clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or custodian is likely to result in serious emotional or physical damage to the child.”⁵⁴ For parental rights terminations, the Act requires the same showing of serious harm to the child, through a showing of proof beyond a reasonable doubt.⁵⁵

To ensure the well-being of Native American children, the Act should apply whenever Native American children are involved in state proceedings that place the child at risk of being removed from the home. As the legislative history of the Act explained, “[t]he definition of ‘child placement’ is intended to include proceedings against juveniles which may lead to foster care and proceedings against status offenders, i.e., juveniles who have not committed an act which would be criminal if they were adults, such as truancy.”⁵⁶ In fact, one year after passage of the Act, the Bureau of Indian Affairs Guidelines stated, “[a]lthough most juvenile delinquency proceedings are not covered by the Act, the Act does apply to status offenses, such as truancy and incorrigibility, which can only be committed by children, and to any juvenile delinquency proceeding that results in termination of the parental relationship.”⁵⁷ Therefore, when considering the applicability of the Act to a status offense proceeding, whether classified as delinquency or dependency, the primary inquiry should simply be whether the proceeding may result in out-of-home placement, a foster care placement, guardianship placement, custody placement or termination of parental rights. If this question can be answered *yes*, then the jurisdictional and procedural protections of the Act should be applied.

A Failure to Protect Native American Status Offenders in the Southwest

Understanding the Act as protecting Native American children in state court proceedings is not a radical idea. The Act has achieved success on many levels, for example, by establishing respect for tribal authority and the expansion of tribal preservation policies and programs. While

the overall rate of removal of Native American children from their homes in child welfare proceedings has decreased,⁵⁸ Native American children are still being removed from their homes in numbers disproportionately higher than non-Native American children. This is particularly true when 4,430 Native American children were involved with the juvenile justice system for status offenses in 2008.⁵⁹

The fact that the majority of Native American children and their families do not reside on tribal lands is of core significance when considering the history and purpose of the Act. While the state of crisis present in the 1970s leading to the passage of the Act is not present in today's court systems, there is serious concern regarding the impact of a lack of systemic adoption and enforcement of the Act's protections for status offenders. Native American children involved with the child welfare and juvenile justice systems are subject to a multi-jurisdictional framework complicated by where the activity occurs and the nature of activity, potentially subjecting them to state, federal, or tribal law.

Unfortunately, the critical legal protections provided by the Act are not equally applied across the states. Almost thirty years after enactment, the Act remains a source of controversy and confusion across the country. Fewer than half the states have passed laws that automatically trigger the Act's protections for status offenders, parents, and tribes.⁶⁰ In these states Native American status offenders find themselves in a jurisdictional gray area without clear guidance as to whether the Act's protections apply. In such instances, Native American status offenders are subject to potential ad hoc decision-making by judges, court officials, officers, lawyers, or state agencies, which places severe limits on compliance.⁶¹ Arizona is the only state in the country to specifically reject the inclusion of status offenses under the Act's protections.⁶² It is critical that future advocacy efforts in Arizona focus on revising state law and state court rules to include status offense proceedings under the Act, developing strategic partnerships with key stakeholders, and engaging with Native American service programs to strengthen access to culturally appropriate services.

While overall picture in the Southwest is similar to that in the rest of the country, states such as California, Colorado and Nevada have worked to ensure that Native American status offenders receive the full protections of the Act. In each of these states the legislature has passed statutes that strengthen the tribal role in status offense proceedings by incorporating the Act into status offense proceedings.⁶³ Additionally, state judicial branches have partnered with firms specializing in Indian law to develop judicial benchguides,⁶⁴ established Act-related rules of court,⁶⁵ and developed trainings for members of the court and law enforcement communities with roles in implementing the Act.

California represents a "model" state for protecting Native American status offenders. Not only does California law provide that the protections of the Act, such as notice requirements, heightened burdens of proof, or rehabilitative services, apply in status offense proceedings, but that the Act also applies in delinquency cases when a child is at risk of entering foster care or in foster care.⁶⁶ This comprehensive approach to the best interest of children is critical to strengthening Native American families. In addition to legal reform efforts, California has led the way in educational advocacy to ensure better compliance with the legal obligations under the Act. California courts have developed a comprehensive website with resources regarding the Act including curricula, in-person training, and distance learning tools.⁶⁷ California counties have developed culturally appropriate programs, policies, and collaborative partnerships to assist Native American families and children. In 2008, the California American Indian Enhance-

ment Project⁶⁸ was established to improve outcomes for Native American families and children in the child welfare system. The work of the project has included strengthening relationships with Native American/Alaska Native youth service providers in an urban settings, collaborative trainings, support and technical assistance to local courts on tribal issues, and serving as a liaison to Native American communities in cases related to the Act.

Sometimes navigating the complicated rules in different proceedings and jurisdictions can lead to confusion by lawyers, parents, tribes, child welfare advocates, policymakers, intake officers, judges, and court officials even in states that have passed some laws protecting status offenders. For example, under New Mexico statute, Native American truant or runaway status offenders are protected under the Act.⁶⁹ Specifically, state statutes provide that in a case involving a family in need of court-ordered services, truant or runaway, the child's tribe shall be notified when the petition is filed. Unfortunately, New Mexico statute does not make it clear if other status offenses, such as underage drinking or incorrigibility, fall under the protection of the Act. Furthermore, it is unclear if delinquency proceedings that lead to the removal of the child from the home or placement in foster care fall under the protections of the Act. To address this issue, the New Mexico Child Welfare Handbook 39.2.3 provides that, "Delinquency is not covered by ICWA. 25 U.S.C. §1903(1). If, however, the delinquency proceeding may or does lead to removal of a child from home to foster care, ICWA applies. *There is no New Mexico case law on this provision* (emphasis added)."⁷⁰ While the New Mexico Child Welfare Handbook is a helpful guide for practitioners, without a statute or courts interpreting the Act in this manner, the substantive, procedural and jurisdictional protections of the Act can be applied inconsistently in proceedings for non-truant or non-runaway Native American status offenders.

In states, such as Texas, which have not adopted specific statutes that apply the Act in status offense proceedings, it is important for the Department of Children and Family Services to clearly state a commitment to protecting the procedural rights of Native American children, families and tribes. For example, the Texas Department of Children and Family Services Appendix 1226-A⁷¹ not only provides that child custody proceedings include status offense proceedings under Texas Family Code Title III, but also that Texas follows the Bureau of Indian Affairs Guidelines in child custody proceedings involving Native American children.⁷² Furthermore, Texas courts have stated that any ambiguities between the Act and all regulations, guidelines, and state statutes pertaining thereto are to be resolved in favor of the result that is most consistent with the Act's preferences of keeping Native American children with their families or other Native American families.⁷³

The Significance of Protecting Native American Status Offenders

Essential to understanding the significant potential harms of inconsistency in the application of the Act's jurisdictional, procedural, and substantive protections is an understanding that at many stages of their lives, Native American children represent a disproportionately high population within states' child welfare and juvenile justice systems. In 2010, Native Americans were overrepresented among the national population of youth in foster care by a factor of 2.1; however, rates were much higher in individual states such as Utah, where the factor was 3.5.⁷⁴ Furthermore, from fiscal year 1994 through 2001, Native American youth accounted for 10 percent of federal arrestees age 18 and younger, around 70 percent of all youth committed to the Federal Bureau of Prisons as delinquents and around 31 percent of those committed as adults.⁷⁵ These numbers must be contextualized in the representation of Native American

youth in the overall juvenile population, 0.9 percent in 1994, 1.1 percent in 2000, and 1.4 percent in 2010.⁷⁶ Native American youth disproportionately account for cases at many different stages of the juvenile justice system, but overrepresentation is highest when involving the harshest sanctions, out-of-home placement after adjudication and waiver to the adult criminal justice system.⁷⁷

Status Offense Cases in 2008⁷⁸

	Total	Native American
Status offense cases per 1,000 juveniles age 10-upper age	5.1	10.1
Petitioned status offense cases	156,300	4,430
Detained status offenders	92,100	2,860
Percentage of petitioned status offenders that are detained	12,900	590
Total Capacity	8.25%	13.32%

While this overrepresentation in the juvenile justice system is evident, disproportionality is more aggravated for status offenses. Native Americans had the highest case rate of petitioned status offenses among all racial groups in the United States between 1995 and 2008.⁷⁹ Their case rate at 10.1 is twice that of White children, four times that of Asian children and nearly double the overall national rate of 5.1 per 1,000 children. While this is true collectively for status offenses, Native American children have the highest representation in cases specifically regarding curfew, liquor law and truancy violations.⁸⁰ These three categories in particular realized increases of 28 percent, 32 percent, and 54 percent, respectively, between 1995 and 2008 in the number of petitioned cases.⁸¹ In this way, the disproportionate representation of Native American youth in status offense cases is compounded by the significant increase in the number of petitioned cases precisely for offenses most characteristic of this population.

While Native American youth are disproportionately represented among status offenders, this group bears further burdens given that status offenders are classified as criminal defendants in most states and are detained, adjudicated, and punished in the same manner as juvenile delinquents. Nationally, 12,900⁸² or 8.25 percent of the 156,300 petitioned status offense cases in 2008 involved detention for the offenders. However, the comparable statistic for cases involving Native American youth was 13.32 percent.⁸³ Of all youth incarcerated in both public and private residential facilities in 2010, 3,016 were status offenders and of these, most were classified as ungovernable (1,080), followed by truants (643), and runaways (535).⁸⁴ Furthermore, truancy, for instance, indicates a high propensity towards future delinquent acts or educational failure so incarceration without access to proper services for rehabilitation only perpetuates this disposition.⁸⁵ These numbers, however, do not represent the full extent to which status offenders are incarcerated. In 1980, Congress amended the JJDP A to allow juvenile courts to incarcerate children “charged with or who have committed a violation of a valid court order.”⁸⁶ This expanded authority means many of the 11,604 children incarcerated in secure facilities in 2010 for “technical violations” may be status offenders.⁸⁷ For example, in Utah at least 25 percent of offenders in custody were in custody for technical violations of probation, parole, or valid court orders.⁸⁸

Native American Status Offenders Are More Likely to be Removed from Their Homes

Adjudication of status offense cases that prescribe removal of a juvenile offender from the home may result in a wide variety of placement options. Of the 9,700 cases in 2007, only 3,410 were captured in the national Census of Juveniles in Residential Placement, an informative data set that includes facilities ranging from group homes and shelters to detention centers and long-term secure facilities.⁸⁹ Many of the status offenders surveyed are housed in living units and programs alongside juveniles convicted of murder and rape.⁹⁰ Similarly, of the juvenile population housed in secure detention facilities, it is estimated that one-third are cases involving status offenses or technical parole violations.⁹¹ It is noteworthy that the program and confinement conditions are unknown for status offenders placed outside the home but not ultimately represented in this census. In light of this reality, it is clear that a significant percentage of status offenders are housed outside of their homes, in secure confinement and other detention programs alongside violent juvenile offenders while for a large group of others, placement location and conditions remain unreported.

Native American Youth in Residential Placement in Southwest⁹²

	Status Offense	Technical Violation
2007	21	66
2010	6	60

In 2007, at least 21 Native American status offenders were incarcerated in the Southwest, housed in residential facilities away from their families, their communities and their cultures.⁹³ However, this number only represents a minimum of Native American children placed outside their homes, since the national Census of Juveniles in Residential Placement fails to capture the entire incarcerated population during a given year, only surveying children in residential facilities on the specific census date.⁹⁴ Furthermore, if the possibility that status offenders fall under the technical violation designation, then this lower threshold becomes even more significant. There is no information on whether the procedural, jurisdictional, and substantive protections for Native American youth enshrined in the Act were provided for these children or whether the residential facilities housing them are culturally competent. Moreover, given the purpose, intent and statutory obligations of the Act, there is little justification for this placement of Native American children outside the home in residential facilities, except in the most serious of circumstances.

Removal of Native American Children From Their Homes Harms Children, Families and Tribes

As testimony by David Simmons of the National Indian Child Welfare Association noted, “[B]ecause many of these state and federal detention facilities are long distances from tribal communities, both the tribe and family members may be at a disadvantage as they try to help their tribal youth.”⁹⁵ Similarly, in his testimony before the United States Senate Committee on Indian Affairs, Chairman Dan Eddy of the Colorado River Indian Tribes described how difficult it was for family members in his community to physically visit and maintain a helpful relationship with youth confined in state detention facilities, most of which are hundreds of miles from the reservation community.⁹⁶ He argued that without a regular presence, it can be very difficult for tribes and family members to have a current understanding of the issues that Native American youth in detention are experiencing and how best to address these.⁹⁷

In a study being conducted by the National Indian Child Welfare Association, Prevent Child Abuse of America, and Purdue University, where the link between youth victimization and delinquency are being examined, preliminary results have indicated that practicing and participating in tribal culture, such as speaking tribal language, is key to having a reduced risk of becoming involved in the juvenile justice system.⁹⁸ Public and private residential facilities are simply not equipped to regularly provide this level of support to incarcerated Native American youth and would be hard pressed to, even with a significant increase in resources. As decades of research and best practices in the field have shown, punitive programs that remove youth from their homes and their tribal communities make it harder to address the problems that led to the out-of-home placement in the first place.⁹⁹

It is clear that Native American youth face significant challenges. They are overrepresented in the child welfare and juvenile justice systems, more likely to commit status offenses and more likely to be detained, removed from their homes and placed in residential facilities for their actions. These status offenders pose no threat to society at large, but nevertheless experience high incarceration rates and are housed in facilities alongside serious juvenile delinquents. Given the disproportionate removal and contact of Native American children with the juvenile justice system, there must be consistent statewide compliance with the Act combined with comprehensive and culturally sensitive services.

How States Can Protect Native American Status Offenders

Native American tribes cannot solve this issue alone. The issue of child well-being for Native American status offenders, in the context of multiple legal and non-legal frameworks, requires working across systems. This necessitates collaboration between tribes, policymakers, lawyers, judges, child welfare and juvenile justice advocates, and private and public agencies to develop and promote solutions aimed at ensuring protections of one of the most vulnerable populations of children, Native American status offenders.

Given the diversity of the Southwest, such solutions should be considered on a state-by-state and community-by-community basis to promote culturally appropriate, coordinated services and programs. For example, one solution to fulfilling the Congressional mandates and intent of the Act would be the automatic transfer of all status offense cases to tribal courts, under the presumptive tribal jurisdiction provision, to ensure compliance with the legal requirements and to provide comprehensive and culturally sensitive services. Without the transformation of multiple systems through the implementation of innovative legislation, funding, policies,

and programs to ensure compliance with the Act in status offense proceedings, critical tribal perspectives on the best interest of Native American children will not be heard. Such silencing of tribal voices undermines the dual purpose of the Act: to prevent removal of Native American children from their homes, and to promote the stability of tribes. Simply put, this places greater numbers of Native American children at risk.

- **Revising State Statutes, Rules and Policies.** In states that do not have clear statutory requirements for application of the Act in status offense proceedings, there must be revisions to statute, state code, state court rules, and departmental policies. Ensuring that the critical protections for Native American children, families, and tribes are provided in all proceedings, which place a child at risk of being removed from the home, begins with basic compliance with the Act. As the examples discussed above illustrate, adopting clear laws, policies, and protocols is the first step in addressing a lack of systemic adoption and enforcement of the Act's protections for status offenders. The second and more challenging step will be a comprehensive evaluation of compliance with the Act, and state-wide education so that individuals and agencies can more effectively deliver services to Native American children and families.
- **Comprehensive Data Collection.** Comprehensive data collection, analysis, and synthesis are crucial to identifying, understanding, and targeting areas for improvement as well as protecting Native American children, families, and tribes. As evidenced by the statistics above, there is a significant lack of data and evaluation available at the state level addressing compliance with the Act. States are not currently monitoring or accurately tracking the number of Native American status offenders in the dependency and/or delinquency systems or collecting data regarding case status and adjudication in status offense cases. For example, due to the methodology of the Census of Juveniles in Residential Placement, the confinement conditions are unknown for more than half of all status offenders held outside the home in a given year. To ensure compliance with the Act and to protect Native American children, states must develop tools for data collection, including but not limited to, case processing, case status, case disposition, placement status, confinement conditions, and compliance with cultural practices.
- **Monitoring, Compliance and Accountability.** Consistent with the recommendations of the Government Office of Accountability, states must develop and implement monitoring protocols for compliance with the Act. These protocols must pay particular attention to issues of disproportionate representation of Native American children in the child welfare and juvenile delinquency systems. Based on data collected by these monitoring protocols, states must file comprehensive reports documenting compliance efforts with the Administration for Children and Families, Bureau of Indian Affairs, and local tribal communities. These reports should include, but not be limited to, a discussion of annual progress, review compliance with prior compliance and implementation issues, and development of continued program improvement plans.
- **Education and Training.** States must invest in curricula, in-person training, distance learning tools, local education strategies, and state-wide training institutes for all practitioners that come in contact with status offenders on the requirements and protections of the Act. Trainings should be developed collaboratively with tribal communities and publicly available, not only addressing the legal protections of the Act and the importance

of compliance with the Act, but also providing individuals and agencies with strategies to adopt stronger protocols and policies to more effectively advocate for Native American children in status offense proceedings.

- **Tribal Community Engagement.** Cultural experts believe that for institutions, policies, and programs to improve the lives of Native American children and families, they must have legitimacy, and in order to have legitimacy, they must reflect the individual cultural practices of Native American communities. Therefore, successful programs are those conceived of, implemented by, and generally, in part, funded by tribal communities.¹⁰⁰ Successful tribal youth programs have been implemented across the United States focusing on a diverse range of issues impacting youth with the underlying goals of supporting youth and developing tribal wellness. Such programs must be based on coordinating resources through partnerships, sustained funding, and an engagement with native traditions. By implementing, evaluating, and funding such programs, tribes can better support children and families at risk for coming in contact with the child welfare and delinquency systems. Such preventative strategies must be focused on long-term outcomes.

Conclusion

The passage of the Act was only a beginning step toward the goals of promoting tribal survival and protecting the interests of Native American children. Three decades after its enactment, Congress has still failed to devote adequate resources to address the needs of Native American families and children. At the same time, the perplexing problems faced by state courts in adjudicating cases involving Native American children demand attention. The ultimate success of the Act will require increased state compliance, consistent monitoring and evaluation, education and outreach, creation of tribal-state partnerships, and dramatic increases in funding for tribal child welfare programs, tribal foster homes, and social services.

Endnotes

1. Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901–1963 (2006).
2. 25 U.S.C. § 1901 (3) (Congressional Findings).
3. 25 U.S.C. § 1901 (1).
4. 25 U.S.C. § 1903 (1). There is significant interpretation of what child custody proceedings across the United States, which has caused inconsistency in application of the Act, non-compliance with the Act, and issues with implementation with the Act. For example, see ARIZ. REV. STAT. ANN. § 8-201(10) (2007); ARIZ. REV. STAT. ANN. § 8-201(18) (2007); Ariz. Juv. Ct. R.P. 8(A) (2007); CAL. WELF. & INST. CODE §§ 224.3, 601 (2011); COLO. REV. STAT. § 19-1-126 (2011); NEV. REV. STAT. § 62D.210 (LexisNexis 2011); New Mexico, NMSA 1978 § 32A-1-8 (2009), NMSA 1978 § 32A-1-14 (2005), and NMSA 1978 § 32A-5-4 (1993); In re Interest of J.J.C., 302 S.W.3d 896 (Tex. App. 2009).
5. Status offenses are acts, which if committed by an adult, would not be criminal. See González, Thalia, “Reclaiming the promise of the Indian Child Welfare Act: A study of state incorporation and adoption of legal protections for Indian status offenders,” *New Mexico Law Review* (forthcoming June 2012), Appendix A; Costello, Jan C., and Nancy L. Worthington, “Incarcerating Status Offenders: Attempts to Circumvent the Juvenile Justice and Delinquency Prevention Act,” *Harvard Civil Rights-Civil Liberties Law Review* 16 (1981): 41-81; Matthews, Howard T., Jr., “Status Offenders: Our Children’s Constitutional Rights Versus What’s Right for Them,” Comment, *Southern University Law Review* 27 (2000): 201-213; Steinhart, David J., “Status Offenses,” *The Future of Children* 6.3 (1996): 86-99.
6. Sickmund, M., et al., “Easy Access to the Census of Juveniles in Residential Placement 1997-2010, US & State Profiles” (United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2011), <<http://www.ojjdp.gov/ojstatbb/ezacjrp/>>.
7. Sickmund, et al., see “Facility self-classification” in the glossary.
8. United States, Department of the Interior, “What We Do,” <<http://www.bia.gov/WhatWeDo/index.htm>>.
9. O’Hare, William, “The Changing Child Population of the United States: Analysis of Data from the 2010 Cen-

- sus” (Baltimore, MD: The Annie E. Casey Foundation, Population Reference Bureau, Nov. 2011). <<http://www.aecf.org/-/media/Pubs/Initiatives/KIDS%20COUNT/T/TheChangingChildPopulationoftheUnitedStates/AECF-ChangingChildPopulationv8web.pdf>>.
10. O’Hare.
 11. O’Hare.
 12. O’Hare.
 13. Atwood, Barbara Ann, *Children, Tribes, and States: Adoption in Custody Conflicts over American Indian Children* (Durham, NC: Carolina Academic Press, 2010); National Urban Indian Family Coalition, “Urban Indian America: The Status of American Indian and Alaska Native Children and Families Today” (Baltimore, MD: The Annie E. Casey Foundation, 2008) <<http://www.aecf.org/-/media/Pubs/Topics/Special%20Interest%20Areas/SW%20border%20and%20American%20Indian%20Families/UrbanIndianAmericaTheStatusofAmericanIndianandUrban%20Indian%20America.pdf>>.
 14. Atwood.
 15. National Urban Indian Family Coalition.
 16. Atwood.
 17. National Urban Indian Family Coalition 11 states, “The poverty rate of urban Indians is 20.3 percent compared to 12.7 percent for the general urban population.”
 18. “Data Snapshot on High-Poverty Communities,” *Kids Count Data Snapshot* (Baltimore, MD: The Annie E. Casey Foundation, Feb. 2012), <http://www.aecf.org/-/media/Pubs/Initiatives/KIDS%20COUNT/D/DataSnapshotHighPovertyCommunities/KIDSCOUNTDataSnapshot_HighPovertyCommunities.pdf>.
 19. “Data Snapshot on High-Poverty Communities.”
 20. “Data Snapshot on High-Poverty Communities.”
 21. “Data Snapshot on High-Poverty Communities.”
 22. Snyder, Howard N., and Melissa Sickmund, *Juvenile Offenders and Victims: 2006 National Report* (Washington, DC: United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention and National Center for Juvenile Justice, March 2006), <<http://www.ojjdp.gov/ojstatbb/nr2006/downloads/NR2006.pdf>>.
 23. O’Hare.
 24. Atwood 23.
 25. Kids Are Waiting: Fix Foster Care Now and National Urban Indian Child Welfare Association, “Time for Reform: A Matter of Justice for American Indian and Alaskan Native Children” (Philadelphia, PA: The Pew Charitable Trusts, 2007), <http://www.pewtrusts.org/uploadedFiles/www-pewtrusts.org/Reports/Foster_care_reform/NICWARE-report.pdf>.
 26. Snyder and Sickmund.
 27. Hartney, Christopher, and Fabiana Silva, “And Justice for Some, Differential Treatment of Youth of Color in the Justice System” (Oakland, CA: National Council on Crime and Delinquency, Jan. 2007), <http://www.nccd-global.org/sites/default/files/publication_pdf/justice-for-some.pdf>.
 28. Draper, Lindsey, et al. *Disproportionate Minority Contact, An Assessment of Disparity in the Wisconsin Juvenile Justice System 2003–2007* (Madison, WI: Wisconsin Office of Justice Assistance, Jan. 2009), <<http://oja.state.wi.us/docview.asp?docid=16877&locid=97>>.
 29. Hartney, Christopher, “Native American Youth and the Juvenile Justice System,” *Focus* (Oakland, CA: National Council on Crime and Delinquency, March 2008), <http://www.nccdglobal.org/sites/default/files/publication_pdf/focus-native-american-youth.pdf>.
 30. Hartney.
 31. Hartney.
 32. Puzanchera, Charles, Benjamin Adams, and Melissa Sickmund, “Juvenile Court Statistics 2008” (Pittsburg, PA: National Center for Juvenile Justice, July 2011), <<http://www.ncjj.org/pdf/jcsreports/jcs2008.pdf>>. This represents the most current publication of Juvenile Court Statistics.
 33. Atwood.
 34. The House Report noted “[t]he wholesale separation of Indian children from their families [sic] is perhaps the most tragic and destructive aspect of American Indian life today.” H.R. REP. NO. 95-1386, at 9 (1978), reprinted in 1978 U.S.C.C.A.N. 7530, 7531. The House Report also noted, “Indian child welfare crisis is of massive proportions” H.R. REP. NO. 95-1386, at 9 (1978).
 35. S. REP. NO. 95-597, at 11 (1977).
 36. S. REP. NO. 95-597, at 11 (1977).
 37. United States Senate, Committee on Interior and Insular Affairs, Subcommittee on Indian Affairs, *Indian Child Welfare Program, Problems that American Indian Families Face in Raising Their Children and How These Problems Are Affected by Federal Action or Inaction*, Hearing, 8 April 1974, 93rd Cong., 1st sess. (Washington, DC) 3-4, see statement of William Byler, Executive Director, Association on American Indian Affairs.
 38. 25 U.S.C. § 1901 (2006).
 39. The Act defines “Indian child” as “any unmarried person who is eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.” 25 U.S.C. § 1903(4) (2006).
 40. 25 U.S.C. § 1911(a) (2006).
 41. *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 36 (1989).
 42. 25 U.S.C. § 1911(b) (2006).

43. Atwood, Barbara Ann, “Flashpoints Under the Indian Child Welfare Act: Toward a New Understanding of State Court Resistance,” *Emory Law Journal* 51 (2002): 587-676; Graham, Lorie M., “The Past Never Vanishes: A Contextual Critique of the Existing Indian Family Doctrine,” *American Indian Law Review* 23 (1998-99): 1-54.
44. 25 U.S.C. § 1912(d) (2006).
45. 25 U.S.C. § 1915.
46. 25 U.S.C. § 1912(e).
47. 25 U.S.C. § 1915(e).
48. 25 U.S.C. § 1915.
49. 25 U.S.C. § 1912(a). One of the purposes of the notice requirement is to enable an Indian tribe to participate in determining whether the child involved in the proceeding is an “Indian child.” See *In re Jeffrey A.*, 127 Cal. Rptr.2d 314, 317 (2002). A tribe cannot participate in determining tribal membership unless the tribe is aware of the proceeding. Further, the notice requirement recognizes that Indian tribes have an interest in Indian child welfare proceedings apart from the parties and that the information supplied by the parties regarding the “Indian child” status of the child may be incomplete. See *In re M.C.P.*, 571 A.2d 627, 633 (1989).
50. 25 U.S.C. §1911(c).
51. 25 U.S.C. §1912(b).
52. 25 U.S.C. §1912(b).
53. 25 U.S.C. § 1912(d).
54. 25 U.S.C. §1912(e)
55. 25 U.S.C. § 1912(f)
56. S. REP. NO. 95-597, at 16 (1977).
57. Bureau of Indian Affairs Guidelines for State Courts; Indian Child Custody Proceedings, 44 Fed. Reg. 67,584, 67,586 (Nov. 26, 1979). The BIA Guidelines were intended to be the Department of the Interior’s interpretation of the provisions of the Indian Child Welfare Act.
58. Atwood; Limb, Gordon E., Toni Chance, and Eddie Brown, “An Empirical Examination of the Indian Child Welfare Act and Its Impacts on Cultural and Familial Preservation for American Indian Children,” *Child Abuse & Neglect* 28 (2004): 1279-89.
59. Puzanchera, Adams, and Sickmund.
60. González.
61. Consider the specific example of intake officers. Intake officers are generally charged with a duty to investigate status offense complaints. As part of their investigation, intake officers are charged with a duty to use discretion in weighing whether to recommend a formal petition, to divert the case to another agency, or dismiss the case. While some jurisdictions are very specific about the required extent of the intake officer’s investigation, others do not specify the investigative requirements. Thus, intake officers exercise significant discretion in their gate-keeping function in juvenile court. Although one cannot assume that intake officers will make errors in their investigation, it can be assumed that not all intake officers will contemplate the applicability and requirements of the Act when investigating status offense complaints. This is most likely to occur in states, which have not adopted specific statutes, court rules, or administration guidelines that address the applicability of Act to status offense proceedings.
62. ARIZ. REV. STAT. ANN. § 8-201(10) (2007); ARIZ. REV. STAT. ANN. § 8-201(18) (2007); Ariz. Juv. Ct. R.P. 8(A) (2007). While Arizona is the only state to affirmatively state that the ICWA does not apply in status offense cases, when read in totality, the Rhode Island and New Hampshire’s statutes have also removed ICWA from applying in status offense proceedings. For example, Rhode Island specifically defines a “delinquent juvenile” to include a wayward child. R.I. GEN. LAWS § 14-6.1-10 (2003). Under § 14-1-3 (9) (i)-(iv) the definition of “wayward child” includes run-aways, truants, and a child who is habitually disobedient to the reasonable and lawful commands of his or her parent or parents, guardian, or other lawful custodian. See R.I. GEN. LAWS § 14-1-3 (9)(i)-(iv) (1995). Thus, when these statutes are read in conjunction, Rhode Island has placed certain status offenses within definition of juvenile delinquency. Such a designation removes the protections of the Act without a court acting outside the text of the Act and applying the non-binding BIA guidelines.
63. California, CAL. WELF. & INST. CODE §§ 224.3 and 601 (Deering 2011); Colorado, COLO. REV. STAT. § 19-1-126 (2011); Nevada, NEV. REV. STAT. § 62D.210 (LexisNexis 2011).
64. California Indian Legal Services, “California Judges Benchguide, The Indian Child Welfare Act,” (Escondido, CA: California Indian Legal Services, June 2012), <<http://www.calindian.org/home/113>>.
65. See the various rules listed under “ICWA-related California Rules of Court,” of California Courts, “ICWA Laws, Regulations & Rules,” (San Francisco, CA: Judicial Council of California, 2012), <<http://www.courts.ca.gov/8709.htm>>.
66. CAL. WELF. & INST. CODE § 224.3 (West 2006).
67. California Courts, “Indian Child Welfare Act (ICWA),” (San Francisco, CA: Judicial Council of California, 2012), <<http://www.courts.ca.gov/3067.htm>>.
68. California American Indian Enhancement Team, “Implementation Toolkit for the American Indian Enhancement Project,” (Berkeley, CA: American Indian Enhancement Project), <http://calswec.berkeley.edu/CalSWEC/AIE/AIE_home.html>. “The American Indian Enhancement Team is an effort of the California Disproportionality Project, a Breakthrough Series Collaborative (BSC) resourced through the Annie E. Casey Foundation, the California Department of Social Services, Casey Family Programs, and the Stuart Foundation, in collaboration with the Administrative Office of the Courts, the Child and Family Policy Institute of California, the California Child Welfare Co-Investment Partnership, the California Social Work Education Center, and Tribal STAR. Participating Counties include Fresno, Orange, Riverside, San Diego, and San Bernardino.”

69. NMSA 1978, § 32A-3A-2(A) (2005); NMSA 1978, § 32A-3B-2 (2009)
70. Corinne Wolfe Children's Law Center, "New Mexico Child Welfare Handbook" (Albuquerque, NM: Institute of Public Law, University of New Mexico School of Law, 2011) section 39.2.3, <<http://childlaw.unm.edu/docs/2011%20Child%20Welfare%20Handbook%20-%20August%202011-2.pdf>>.
71. Texas, Department of Family and Protective Services, Child Protective Services Handbook, Appendix 1226-A: Child-Placing Requirements of the Indian Child Welfare Act and Related Guidelines and Regulations (Austin, TX: Department of Family and Protective Services, 2012), <http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_px_1226a.jsp>.
72. Texas, Department of Family and Protective Services.
73. *In re J.J.C.*, 302 S.W.3d 896, 900 (2009)
74. Summers, Alicia, Steve Wood, and Jesse Russell, "Disproportionality Rates for Children of Color in Foster Care." (Reno, NV: National Council of Juvenile and Family Court Judges, Permanency Planning for Children Department, University of Nevada, May 2012), <<http://www.ncjfcj.org/sites/default/files/Disproportionality%20Rates%20for%20Children%20of%20Color%202010.pdf>>.
75. Snyder and Sickmund.
76. Puzzanchera, C., A. Sladky, and W. Kang, "Easy Access to Juvenile Populations: 1990-2010, Population Profiles," (United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2011), <<http://www.ojjdp.gov/ojstatbb/ezac-jrp/>>.
77. Hartney.
78. Data represented in the table is from Puzzanchera, Adams, and Sickmund.
79. Puzzanchera, Adams, and Sickmund.
80. Puzzanchera, Adams, and Sickmund.
81. Puzzanchera, Adams, and Sickmund.
82. Puzzanchera, Adams, and Sickmund.
83. Puzzanchera, Adams, and Sickmund.
84. Sickmund, et al.
85. The Act 4 Juvenile Justice Working Group, "The Juvenile Justice and Delinquency Prevention Act: A Fact Book" (Washington, DC: The Act 4 Juvenile Justice care of Coalition for Juvenile Justice, 2007), <http://www.act4jj.org/media/factsheets/factsheet_27.pdf>.
86. 42 U.S.C. § 5633(a)(11)(A)(ii) (2006).
87. Sickmund, et al.
88. Snyder and Sickmund.
89. Sickmund, et al., see "Facility self-classification" in the glossary.
90. Sedlak, Andrea J., and Karla S. McPherson, "Conditions of Confinement: Findings from the Survey of Youth in Residential Placement" (Washington, DC: United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2010), <<https://www.ncjrs.gov/pdffiles1/ojjdp/227729.pdf>>.
91. Arthur, Patricia J., and Regina Waugh, "Status Offenses and the Juvenile Justice and Delinquency Prevention Act: The Exception that Swallowed the Rule," *Seattle Journal for Social Justice* 7.2 (2009): 555-576.
92. Sickmund, et al.
93. Sickmund, et al.
94. Sickmund, et al., see "Data collection methods" under methods.
95. United States Indian Law and Order Commission, *Testimony of David Simmons, Government Affairs Director for the National Indian Child Welfare Association*, Field Hearing, 7 September 2011 (Tulalip, WA) 2, <<http://www.indianlawandordercommission.com/resources/documents/DavidSimmonsTestimony.pdf>>.
96. United States Senate, Committee on Indian Affairs, *Law and Order in Indian Country*, Field Hearing, 17 March 2008, 110th Cong., 2nd sess. (Washington, DC: Government Printing Office, 2008), <<http://www.gpo.gov/fdsys/pkg/CHRG-110shrg41590/html/CHRG-110shrg41590.htm>>, see statement of Daniel Eddy, Jr., Tribal Chairman, Colorado River Indian Tribes.
97. United States Senate, Committee on Indian Affairs.
98. United States Indian Law and Order Commission.
99. Holman, Barry, and Jason Ziedenberg, "The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities" (Washington, DC: Justice Policy Institute, 28 Nov. 2006), <http://www.justicepolicy.org/images/upload/06-11_REP_DangersOf-Detention_JJ.pdf>.
100. The Harvard Project on American Indian Economic Development, "The Context and Meaning of Family Strengthening in Indian America" (Baltimore, MD: The Annie E. Casey Foundation, Aug. 2004), <http://www.aecf.org/upload/PublicationFiles/fs_indian_america.pdf>.



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

A TRUE TEXAS MIRACLE:
Achieving Juvenile Justice Reform
in a Tough Economic Climate

by

Deborah Fowler
Deputy Director
Texas Appleseed

When statewide headlines broke in 2007 detailing reports of physical and sexual abuse of youth in Texas Youth Commission (TYC) facilities, the state's juvenile justice system suffered from many of the systemic problems shared by juvenile justice systems nationwide. The "tough on crime" culture of the 1990s fed an overreliance on secure facilities and decreased funding for community-based treatment alternatives. Meanwhile, a growing body of social science research had exposed the significant problems associated with this "tough" approach. These problems included high cost, high recidivism rates, and poor outcomes for youth.

The 2007 TYC crisis, coupled with this new understanding of the poor outcomes associated with treatment in secure settings, informed a bipartisan reform effort that has spanned the last three sessions of the Texas legislature. The result: Texas has dramatically restructured its juvenile justice system in a relatively short period of time by focusing on both substantive statutory changes and budget initiatives.

Since 2005, Texas has reduced population in the state's secure facilities by more than 70 percent, allowing it to close nine secure facilities. In doing so, the state saved over \$90 million in general revenue spending even as it significantly increased funding to local juvenile probation departments for community-based treatment. The underlying lesson of Texas' restructuring: investing in good outcomes for young people does not necessarily mean spending *more* but simply *spending more wisely*.

Texas Tough – the 1990s & Increased Reliance on Secure Residential Facilities

In Texas, a youth who has been adjudicated delinquent may be placed in a county facility (secure or non-secure)¹ or committed to a state facility (high or medium restriction).² Youth on probation or committed to state custody may also be placed in a secure or non-secure therapeutic setting for specialized treatment purposes, or in an emergency shelter if they must be removed from their home on a short-term emergency basis. These facilities are licensed by the Department of Family and Protective Services (DFPS) and are privately run.³

Until December 2011, two Texas agencies were responsible for oversight of the state's juvenile justice systems: the Texas Juvenile Probation Commission (TJPC) and the Texas Youth Commission (TYC). TJPC oversaw juvenile probation departments statewide, with a focus on creating and enforcing standards, providing technical assistance and training, collecting, analyzing, and distributing information about effective programming, and disbursing state grants to county departments.⁴ TJPC also distributed state-funded formula and discretionary grants to local probation departments.⁵ The Texas Youth Commission oversaw youth committed to the state's secure facilities, halfway houses, and youth released to parole.⁶

During the 1990s, the same fears surrounding the rise in juvenile crime that ushered in tough penalties for offenders across the nation also affected policy in Texas. In 1995, the Texas legislature passed an omnibus juvenile justice reform bill that included stiffer penalties for youth.⁷ State and federal funding for state secure facilities also increased, with appropriations to TYC more than doubling between 1995 and 2000.⁸ Substantive statutory changes, an increase in the average length of stay, and emphasis on increased funding for institutions contributed to a dramatic rise in population in state-run secure facilities.⁹ Commitments to TYC peaked in 1998, then declined slightly and remained relatively stable until 2007.¹⁰ In 2006, the average daily population in the state's secure facilities was 4,800.¹¹

The number of juveniles in county post-adjudication residential placements increased during the same period.¹² Just as the legislature increased funding for state secure facilities, it also appropriated money for county-based secure facilities. In 1995, the legislature appropriated \$37 million in bond proceeds to TJPC for the construction of 1,000 additional secure post-adjudication beds.¹³ As a result, 19 counties received funding to increase capacity in their post-adjudication facilities.¹⁴

The number of youth certified as adults also increased dramatically during this “tough on crime” era. Between 1990 and 1997, the number of youth certified for transfer to the adult system increased 190 percent.¹⁵

Thus, by the beginning of the 2007 legislative session, the “tough” policies that marked the ‘90s and continued into the new millennium had resulted in a high number of youth in secure settings and the adult system. Expenses had increased as a result of increased reliance on institutions – yet Texas was not seeing promising results, with high recidivism rates for youth released from secure settings.¹⁶

“Tough on Crime” gives way to “Smart on Crime:” Substantive Reforms and Budget Initiatives Prioritize Community-Based Alternatives to Incarceration

High costs and poor results associated with institutionalization led Texas conservatives to begin to re-evaluate their approach to criminal and juvenile justice.¹⁷ While advocacy for change preceded the 2007 scandals at TYC, the scandals themselves provided a unique opportunity to capitalize on the legislative focus on reform. Advocates seized the opportunity to discuss methods of addressing not just the poor conditions in TYC facilities, but the need to decrease reliance on institutions in general.¹⁸ The success of the measures initiated in 2007 led to additional initiatives during the 2009 and 2011 legislative sessions aimed at reducing the number of youth committed to TYC.

1. 2007 & Senate Bill 103

As the Texas legislative session began in 2007,¹⁹ media headlines broke news of tragic abuses of youth in TYC facilities.²⁰ Outrage among policy makers and the public grew as details of ongoing problems surfaced. The concern sparked by these revelations led to bi-partisan support for Senate Bill 103 (SB 103), the first of three reform initiatives that have changed the landscape of Texas’ juvenile justice system.

Though most of the substantive changes included in SB 103 focused on improving conditions in TYC’s secure facilities, it also included a provision that eliminated the ability to commit a youth to TYC for a misdemeanor offense.²¹ SB 103 also reduced the age of the youth over which TYC had jurisdiction from 21 to 19.²²

In anticipation of the increased responsibilities that counties would bear for treating misdemeanant youth, the legislature increased TJPC’s budget by \$57 million.²³ This money was used for two new grants: the “Intensive Community Based Program” which allocated funds to counties based on their 2008 misdemeanor referrals, and the “Intensive Community-Based Pilot Program,” which gave the largest three counties access to funding simply by submitting a program proposal and allowed remaining large counties to submit a proposal in a competitive process.²⁴ Several counties used these funds to create intensive in-home counseling and thera-

peutic treatment to youth and their families.²⁵ Other counties used funding for intensive case management and wraparound services for youth and families.²⁶

The combination of substantive statutory changes and additional funding for probation had an immediate impact. Commitments to TYC began to decline almost immediately. Population was also drastically decreased, as TYC began to move misdemeanor youth out of secure facilities. By 2008, TYC commitments had dropped from 2,738 in 2006 to 1,582 in 2008 and average daily population fell by half, from 4,800 to 2,425.²⁷

2. 2009 Budget Initiatives

Based largely on the success of the county initiatives resulting from the new 2007 funding, the 2009 legislature funded a second new grant for county probation departments with the express purpose of diverting additional youth away from TYC.²⁸ This grant – the “Community Corrections Diversion Program,” also referred to as “Grant C,” was patterned after successful initiatives in other states that incentivized diversion from state secure facilities. All counties were eligible for funding through this grant, but participation was voluntary. During the first year of the grant program, 143 departments accepted funding and 25 declined to participate.²⁹

While funding for “Grant C” was based on each juvenile probation department’s proportion of the statewide weighted average of felony commitments to TYC from fiscal year 2006 through 2008, rider language also imposed a cap on the total number of commitments. The language required that if the commitment cap was exceeded TJPC would pay TYC a proportionate portion of the state funds provided through this diversion program.³⁰ However, in response to judges concerns that a “cap” on commitments might be unethical, in their contracts with counties TJPC instead referred to the cap as a “state target.”³¹ To date, TYC commitments have not come even close to exceeding the cap. In fact, commitments decreased so drastically as a result of the success of the programs that the legislature reduced the cap in the rider adopted in the state’s budget for the 2012-13 biennium.³²

Requirements for state grants from TJPC include performance measures. For the “Grant C” program, these performance measures consist of:³³

- Number of youth served;
- Percent of youth who completed the program, service, or placement;
- Number of youth committed to TYC during the grant period;
- Number of youth certified as adults during the grant period;
- One, two, and three year recidivism rates for youth served in the program, service, or placement; and
- Cost per youth.

The legislature requires TJPC to track youth served by this program “to determine the long-term success for diverting youth from TYC and the adult criminal justice system.”³⁴ County juvenile probation departments report monthly data to TJPC using a system that complies

with TJPC's "Electronic Data Interchange Specifications."³⁵ This process allows the state to track the success of the Grant C program, along with all other state-funded grants, and to step in with technical assistance and information where counties struggle with successful models.³⁶

While official re-offense rates for youth served through a "Grant C" program have not been released, the number of youth committed to TYC after having been served in a program through this initiative has been low. Of the 3,911 juveniles served by "Grant C" in 2010, only 58 were subsequently committed to TYC.³⁷ In 2011, of the 6,664 youth served by a "Grant C" funded program, only 139 were subsequently committed.³⁸ The success of these programs has encouraged counties that initially opted out to begin participating – by 2012, the number of counties opting out of "Grant C" had dropped to 12.³⁹

At the same time that the TJPC budget was increased to provide for additional grant funding for county-based programming through local probation departments, legislative appropriations to TYC began to shrink. In 2009, the legislature made its first substantial cut to the TYC budget, eliminating approximately \$100 million in funding based on the decreased population in the state's secure facilities.⁴⁰

These funding initiatives led to another significant reduction in TYC population, with commitments dropping from 1,582 in 2008 to 1,056 in 2010, and average daily population dropping from 2,425 in 2008 to 1,798 in 2010.⁴¹ Thus, going into the 2011 legislative session, the 2007 and 2009 initiatives had decreased population in the state secure facilities by close to 60 percent. This reduction in reliance on state secure facilities led the legislature to consider an even more dramatic restructuring of Texas' system during the 2011 session.

3. 2011 & Senate Bill 653

The 2011 legislative session saw the passage of Senate Bill 653, a bill focused on a complete restructuring of Texas' juvenile justice system and prioritizing use of community-based alternatives over placement in a secure facility. As part of SB 653, TJPC and TYC were merged to form a new agency, the Texas Juvenile Justice Department (TJJD).⁴² The bill includes language describing the purposes for the new juvenile justice agency:

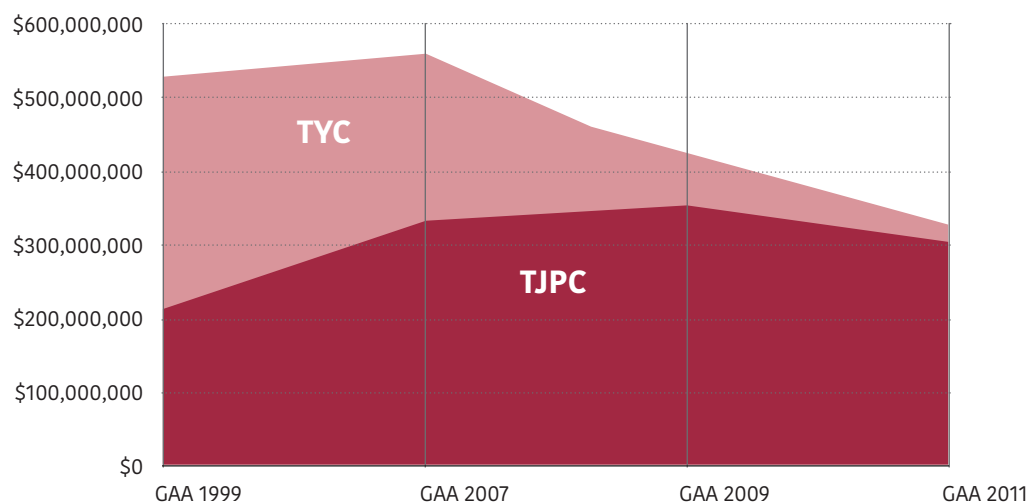
- Creating a unified state juvenile justice agency that works in partnership with local county governments, the courts, and communities to promote public safety by providing a full continuum of effective supports and services to youth from initial contact through termination of supervision;
- Creating a juvenile justice system that produces positive outcomes for youth, families, and communities by:
 - assuring accountability, quality, consistency, and transparency through effective monitoring and the use of systemwide performance measures;
 - promoting the use of program and service designs and interventions proven to be most effective in rehabilitating youth;
 - prioritizing the use of community-based or family-based programs and services for youth over the placement or commitment of youth to a secure facility;

- operating the state facilities to effectively house and rehabilitate the youthful offenders that cannot be safely served in another setting; and
- protecting and enhancing the cooperative agreements between state and local county governments.⁴³

The bill also includes a list of goals for the new department that are consistent with, and expand on, the purpose statement.⁴⁴

While a \$27 billion budget shortfall meant that the 2011 session did not result in another increase in funding for county-based programming, the Texas legislature – convinced by the success of the programs put into place to divert youth from TYC – left TJPC’s funding virtually intact.⁴⁵ Another substantial cut was made to the TYC budget based on the continued decline in the TYC population. The legislature cut approximately \$116 million from funding for state secure facilities.⁴⁶

Change in Appropriations for TYC & TJPC

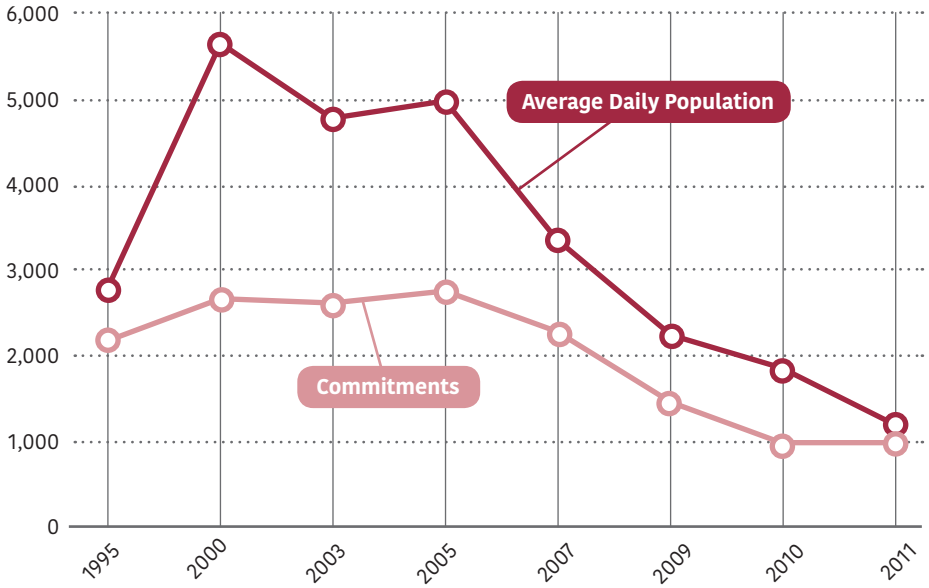


Thus, by the end of the 2011 legislative session, the state funding provided for local probation departments was almost equal to the funding provided for state secure facilities. This is the first time that state funding for local probation departments has approached parity with state institutions.⁴⁷

Results: Texas’ Restructured Juvenile Justice System

The substantive changes enacted in 2007, coupled with the funding initiatives, had an immediate – and profound – impact on the number of youth being committed to state secure facilities. As discussed above, between 2006 and 2011, commitments dropped from 2,738 to 991, and average daily population was reduced from 4,800 to 1,399.

Trend in TYC Commitments & Population



As a result of the dramatic decline in population, nine of Texas' state secure (TYC) facilities have been closed, significantly reducing available bed space in facilities. In 2007, TYC capacity was 4,244.⁴⁸ In 2011, the Texas legislature funded TYC for an average daily population of 1,372 youth.⁴⁹

TYC Facility Closures 2007-2011⁵⁰

Facility	Year Closed	Capacity
Marlin	2007	436
San Saba	2007	356
Coke County (GEO operated)	2007	200
Sheffield Boot Camp	2008	128
West Texas (Pyote)	2010	240
Victory Field	2010	336
Al Price	2011	216
Crockett	2011	208
Ron Jackson II	2011	112

TOTAL REDUCTION IN BEDSPACE: 2,232

The average annual savings represented by a TYC facility closure is approximately \$9.6 million.⁵¹

As available bed space in TYC institutions dropped, stakeholders became concerned that the policy shift could simply lead to an increase in placements in county facilities, or an increase in the number of youth certified to the adult system. This does not appear to have occurred, however.

Instead, state-level reforms also appear to be having an impact on the number of youth placed in county secure facilities. In 2010, 6,314 youth were placed in a county facility after being adjudicated; in 2011, this number dropped to 5,864.⁵² Similarly, the average daily population for residential placements has decreased over the last three years, after spiking in 2008.⁵³ The 2008 spike may have been due, in part, to reluctance on the part of juvenile judges to commit youth to TYC as a result of the 2007 scandals and ongoing problems with conditions in facilities.⁵⁴ It may also have been due to the new restriction on eligibility of misdemeanants for placement in state secure facilities. Whatever the reason, numbers are now well below the pre-reform average daily population.

Average Daily Population in County Residential Placements, 2007-2011



Consistent with the decline in the number of residential placements at the county level, the number of post-adjudication detention facilities also has declined. This resulted in fewer beds in post-adjudication facilities. The biggest decrease has been in the number of privately operated post-adjudication facilities.

Number of County Owned & Private Post-Adjudication Facilities, 2000 & 2010⁵⁵

	2000	2010
County Owned	28	32
Private	13	3
Total Facilities	41	35
Total Capacity	2,281	1,961

Despite fears that the reforms could result in a spike in certifications to the adult system, certifications remained stable in the immediate aftermath of the 2007 reforms, and dropped in 2011.

Trend in Youth Certified as Adults, 1995-2011⁵⁶

1995	2000	2003	2005	2007	2009	2010	2011
535	198	139	178	212	220	229	180

In addition to the positive impact on the availability of community-based alternatives for rehabilitation, the reduction in reliance on state institutions has also resulted in savings for the state.

The Good News for the State's Budget

As reflected above, the legislature's decision to place additional restrictions around the youth who were eligible for placement in TYC, along with increasing funding for community-based treatment, led to a significant decrease in commitments to TYC. The decrease in population, in turn, led to facility closures and budget cuts to TYC. A total of approximately \$216 million was cut from the state institutions' budget, with about \$102 million re-invested in funds allocated to county probation departments for diversion initiatives.⁵⁷

When the new appropriations for TJPC along with the cuts to the TYC budget are considered together, you see a significant savings to the state of Texas as a result of the restructuring of the system. Consider the difference between the combined appropriations from the state's general revenue (GR) fund for TJPC & TYC by the 2007 legislature compared to the appropriations for the two agencies for the 2012-13 biennium:

	2007 Appropriations from GR	2011 Appropriations from GR
TJPC	\$246,732,347	\$290,670,727
TYC	\$450,738,320	\$313,086,316
TOTAL	\$697,470,667	\$603,757,043

SAVINGS = \$697,470,667 - \$603,757,043 = \$93,713,624

Conclusion

Texas' restructured system makes clear the win-win that shifting reliance away from secure facilities and toward community-based alternatives represents. Not only has Texas seen a dramatic reduction in the number of youth served in both state and county facilities, the state has also seen significant savings associated with this shift. At a time when state budgets across the nation are strained, the lesson to be learned from Texas' experience is simple: focusing on better outcomes for youth does not have to come with a bigger price tag. Community-based alternatives to secure placements offer states an opportunity to better serve youth and families, increase community safety, and save state resources. This gives policy makers an opportunity to move some of the savings that can be realized from a "front end" approach to juvenile justice to other child-serving agencies.

Endnotes

1. See Tex. Fam. Code §51.02(8-a) & (13).
2. A high restriction facility is defined as a program which is secured by a perimeter fence; a medium restriction facility is any residential program which provides routine unsupervised access to the community, and includes TYC halfway houses. 37 Tex. Admin. Code §85.27(d)(1-2).
3. See TJPC, *The State of Juvenile Probation Activity in Texas*, Calendar Year 2008 (2010).
4. See TJPC, *Overview of Agency Key Functions*, in Texas Juvenile Probation Commission Agency Overview (2010).
5. Texas distributes a wide range of funding through the grant process, from financial assistance for basic probation services to financial assistance or funding of post-adjudication facilities operated at the county level. TJPC, Annual Report to the Governor and Legislative Budget Board: Juvenile Probation Appropriations, Riders and Special Diversion Programs 1 (2010).
6. See TYC, Strategic Plan 2011-2015 (2010).
7. See Texas Sunset Advisory Comm'n, Sunset Staff Report 5, 68 (1996).
8. TYC, Agency Strategic Plan for the Fiscal Years 2001-2005 23-24, 34 (2000).
9. Id. at 15 ("As overall juvenile crime has declined since its peak in 1995, commitments to TYC has [sic] actually substantially increased from 2,123 in FY 1995 to 3,188 in 1998, a 50 percent increase."); Texas Sunset Advisory Comm'n, supra note vii, at 28-35. While commitments increased steadily between 1995 & 2000, this increase is not solely responsible for the population trends. As a result of changes made by the legislature in 1995, the minimum length of stay for youth committed to TYC increased significantly. TYC, supra note viii, at 20; Texas Sunset Advisory Comm'n, supra note vii, at 68-69. This resulted in an increased length of stay for youth in TYC facilities, driving up population as commitments increased. TYC, supra note 8, at 91.
10. Id. (commitments dropped from 3,188 in FY 1998 to 2,979 in 1999); TYC, TYC Population Trends, http://www.tyc.state.tx.us/research/growth_charts.html (last visited Aug. 23, 2011) (TYC commitments in 2000 were 2,558 and remained relatively stable until 2008, when they dropped to 1,582. They have continued their downward trend since 2008.).
11. TYC Population Trends, supra note x.
12. See TJPC, Texas Juv. Probation Statistical Rep. Calendar Year 1997 (1998); TJPC, The State of Juv. Probation Activity, Calendar Year 2000 (2001); TJPC, The State of Juv. Probation Activity in Texas, Calendar Year 2005 (2006); TJPC, The State of Juv. Probation Activity in Texas, Calendar Year 2008 (2010).
13. Texas Sunset Advisory Commission, supra note vii, at 76.
14. Id.
15. TJPC, Texas Juv. Probation Statistical Rep. Calendar Year 1997 23 (1998).
16. See Texas Public Policy Foundation, Getting More for Less in Juvenile Justice (2010).
17. See Texas Public Policy Foundation, Center for Effective Justice, www.texaspolicy.com.
18. See Marc Levin, Director, Center for Effective Justice, Texas Public Policy Foundation, Testimony of Marc Levin on SB 103 by Hinojosa on the Texas Youth Commission (2007); Marc Levin, Director, Center for Effective Justice, Texas Public Policy Foundation, Testimony of Marc Levin on TYC Reform, Progress Report & Recommendations on Short-Term Goals (2007). Both available at <http://www.texaspolicy.com/>
19. The Texas legislature meets every two years.
20. See R.G. Ratcliffe & Lisa Sandburg, TYC board ousted; abuse scandal grows, *Hou. Chron.*, March 15, 2007; Mike Ward, Governor's office received detailed reports alleging sex scandal, *Austin Am. Statesman*, March 23, 2007; Dallas Morning News, Scandal at TYC, available at <http://www.dallasnews.com/investigativereports/tyc/>
21. Senate Bill 103, 80th Leg. (Tex. 2007). This was not the first statutory change in eligibility for commitment to TYC over the last ten years, however. In 1999, the Texas legislature passed a bill limiting eligibility for commitment in non-felony cases so that non-felony commitments could be

- made only on revocation of felony probation or where the youth had at least two prior misdemeanor adjudications. TYC, Agency Strategic Plan for the Fiscal Years 2001-2005 23-24, 34 (2000).
22. Senate Bill 103, supra note xxi.
 23. Senate Bill 1, General Appropriations Act, 79th Leg. (Tex. 2005); Senate Bill 1, General Appropriations Act, 80th Leg. (Tex. 2007); see also TJPC, 81st Legis. Session Information Packet 2-8 (2009) (describing new funding appropriated in 2007). This additional funding did not come from savings represented by facility closures – the legislature appropriated this money before any of the 2007 closures took place.
 24. TJPC, supra note xxiii.
 25. Information for Bexar County’s “Kids Averted from Placement Services,” Dallas County’s “Intensive Community Based Program,” and Travis County’s “Enrichment Program” provided by TJJD upon request (on file with author).
 26. Information for Denton County’s “TARMAC” program, El Paso’s “SHOCAP” program, Harris County’s “Youth Advocate Programs,” and Tarrant County’s “Project ASPECT” provided by TJJD upon request (on file with author).
 27. TYC Population Trends, supra note x.
 28. TJPC, Annual Report to the Governor and Legislative Budget Board: Juvenile Appropriations, Riders, and Special Diversion Programs 8 (2010)(Community Corrections Diversion Program).
 29. TJPC, 82nd Legislative Session Agency Information Packet 7 (2011).
 30. See Senate Bill 1, General Appropriations Act, 81st Sess., Rider 21, at V-33 (Tex. 2009)
 31. Information provided to Texas Applesed by TJPC upon request (on file with author).
 32. Senate Bill 1, General Appropriations Act, 82nd Leg., Juvenile Probation Commission, Rider 15, at V-33 (Tex. 2011).
 33. These performance measures were named in the rider to the TJPC budget outlining legislative requirements for the Grant C program. Senate Bill 1, supra note xxx, at V-29.
 34. Id. at Rider 15, V-33.
 35. See TJPC’s Data Collection Standards, 37 Tex. Admin. Code §341.
 36. The emphasis on data collection and monitoring of local probation activities sets Texas apart from other states that have engaged in de-incarceration efforts. In California and New York, deincarceration has been somewhat hampered by the inability to track youth and programs at the county level. Because TJPC was created in 1981 for the express purpose of encouraging consistency across juvenile probation systems in Texas, the state had been collecting data, creating standards, and monitoring county activities for years. See Sayre Quevado, Lead Juvenile Justice Expert Says State Facilities Should Stay Open, Huffington Post, March 29, 2012; Task Force on Transforming Juvenile Justice, Charting a New Course A Blueprint for Transforming Juvenile Justice in New York State (2009).
 37. TJPC, supra note xxvii. Information for 2011 provided by TJJD upon request (on file with author).
 38. Data updated by TJJD upon request (on file with author).
 39. Information provided by TJJD upon request (on file with author).
 40. Senate Bill 1, supra note xxx, at V-57.
 41. TYC Population Trends, supra note x.
 42. Senate Bill 653, 82nd Leg. (Tex. 2011).
 43. Id.
 44. Id. Savings from the administrative merger of the two agencies were small – the Legislative Budget Board estimated a savings of approximately three million dollars as a result of the elimination of duplicative positions. Senate Bill 653, Fiscal Note, available at <http://www.legis.state.tx.us/tlodocs/82R/fiscalnotes/pdf/SB00653F.pdf#navpanes=0> However, if the state prioritizes community-based alternatives to incarceration, the state should be able to realize additional savings as the population in secure facilities continues to decrease. Additional reductions in population should allow for additional facility closures.
 45. See Senate Bill 1, supra note xxx, at V-27-33 (reduction reflects a five percent cut in TJPCs budget, in addition to the five percent cut mandated for 2010 – approximately a 10 percent total reduction from GAA 2009). Because SB 653 had not yet passed when the budget was finalized, the budget included TJPC and TYC but also included a contingency rider that transferred the funding for both to TJJD on passage of SB 653.
 46. Senate Bill 1, supra note xxx, at V-47.
 47. Since \$3 million in funding for prevention & intervention was added to the TJJD budget after the merger, and those funds were distributed to counties based on proposals for prevention programs, the funds set aside in the TJJD budget for probation departments actually slightly exceeds funds included in the budget for state facilities. E-mail from Linda Brooke, Director of External Affairs and Communications, TJJD to Deborah Fowler, Deputy Director, Texas Applesed (July 24, 2012)(on file with author).
 48. TYC, TYC Population Trends, supra note x.
 49. Senate Bill 1, supra note xxx, Texas Youth Commission Performance Measure Targets, at V-49.
 50. Information provided by the Texas Youth Commission in August 2011 (on file with author). In addition to the three facilities closed in 2011, two neighboring facilities were consolidated. See Henry Joel Simmons, Right on Crime, Texas Youth Commission Closes Three Facilities, June 10, 2011, available at <http://www.rightoncrime.com/2011/06/texas-youth-commission-closes-three-facilities/>
 51. Based on an economic analysis of restructuring completed by FTI Consulting, Inc., a forensic accounting firm, for Texas Applesed (on file with author). FTI used figures from the “TYC Decision Matrix” created by TYC, which included facility costs. The FTI estimate includes the necessary closing and carrying costs associated with closure, which may include repairs & maintenance, demolition, realty fees, transportation of materials & equipment, among other things.

52. Data provided by Texas Juvenile Justice Department in response to open records request (on file with author).
53. TJPC, 82nd Leg. Session Agency Info. Packet 18 (2011).
54. See Judge W. Jeanne Meurer, Meurer: State Scandal's Fallout Straining Local Resources, *Austin Am. Statesman*, Mar. 27, 2007, available at <http://shapleigh.org/news/1263-meurer-state-scandal-s-fallout-straining-local-resources>.
55. TJPC, The State of Juv. Probation Activity, Calendar Year 2000, *supra* note xii, at 36; TJPC, Facilities Registry, available at <http://www.tjjd.texas.gov/publications/other/search-facilityregistry.aspx>
56. TJPC, The State of Juv. Probation Activity in Texas, Calendar Year 2003 15 (2004), available at <http://www.tjpc.state.tx.us/publications/reports/RPTSTAT2003.pdf>; The State of Juv. Probation Activity in Texas, Calendar Year 2008 17 (2009); TJPC, *supra* note xxix, at 16.
57. Based on increased funding of \$57 million for probation initiatives in 2007 and \$45 million for Grant C in 2009.

The word "HEALTH" is centered in a bold, dark red, sans-serif font. It is framed by two large, thin, dark red brackets on either side, with horizontal lines extending from the ends of the brackets.

HEALTH



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

**PROSPECTS FOR CONTINUED PROGRESS
ON CHILDREN'S HEALTH INSURANCE IN
THE SEVEN SOUTHWESTERN STATES:
The Perceptions of State-based Advocates**

by

Eugene Lewit and Pilar Mendoza

David and Lucile Packard Foundation

with

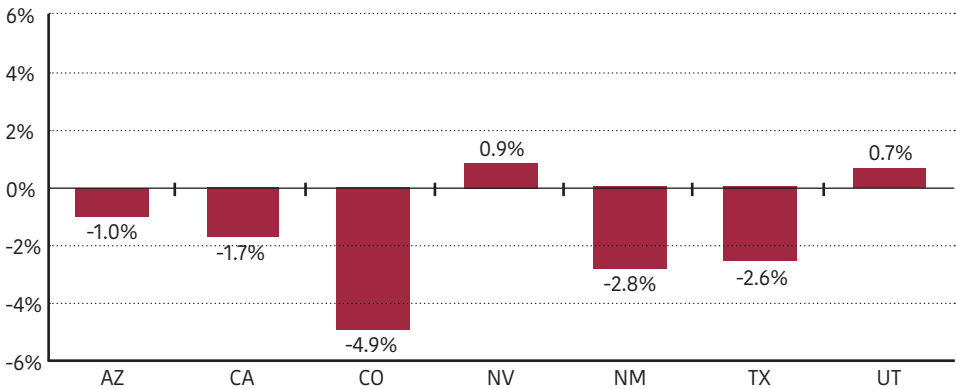
Karen Crompton, Voices for Utah Children
Anne Dunkelberg, Center for Public Policy Priorities
Kelly Hardy, Children Now
Matt Jewett, Children's Action Alliance
and **Bill Jordon**, New Mexico Voices for Children

Introduction

One of the most important good news stories of recent years is that the percent of children in the U.S. without health insurance fell to record low levels. The rate of uninsurance among children in low-income families also fell to an historical low. These developments are notable because health insurance can help children get the health care they need to alleviate the pain and discomfort of illness and provide a foundation for success in school and life. Health insurance also helps mitigate the family stress and insecurity associated with large and unexpected health care expenses.

Children in the seven Southwestern states, Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah, benefited from the growth in health insurance coverage as well. Despite having in the aggregate higher rates of uninsured children than other states, the Southwestern states as a group made more progress reducing uninsurance among children than the balance of the country in the period 2004-5 to 2009-10. During that five year period, the rate of uninsured children in the Southwestern states declined from 15% to 13% compared with a small aggregate increase to 9% from 8% in the same period for the rest of the country. Five of the seven Southwestern states showed a decline in the rate of uninsured children during this time, with the largest decrease (almost 5 percentage points) reported for Colorado (Figure 1). The rate of uninsurance in California only declined by 1.7% during the period studied. Because of its large population base, however, California accounted for approximately two-thirds of the reduction in the number of uninsured children in the Southwest. Texas and Colorado also had strong reductions in the number of uninsured children during the five year period.

Figure 1: Change in Percent Children Uninsured by State, 2005-2010¹⁰



The main reason for the decline in uninsurance among children in recent years, despite a weak economy and declining rates of employer sponsored coverage, has been the growth in Medicaid and the Children's Health Insurance Program (CHIP). Medicaid and CHIP are state and federally funded and state administered public health insurance programs for children in poor and moderate-income families. In the Southwestern states, CHIP and Medicaid enrollment increased by almost two million children between 2005 and 2010 – more than offsetting the

decline of approximately 700,000 in the number of children with employer sponsored coverage. (The balance of the U.S. saw an increase in children's Medicaid and CHIP enrollment of approximately 3.7 million and decline in employer sponsored coverage of 3.5 million over the same period.)

The significant economic decline of the recent past likely accounted for most of the decline in employer sponsored coverage and growth in public coverage. When incomes fall because of rising unemployment, more children become eligible for public coverage, as job loss frequently means the loss of coverage as well. In those cases, the public programs serve as a safety net for children, and to some extent, their parents. In situations where access to employer coverage was limited or nonexistent, declining family income can make family members eligible for benefits that would otherwise be inaccessible.

Encouraged by advocates, supported by philanthropy, and incentivized by the federal government (in particular through the Children's Health Insurance Program Reauthorization Act (CHIPRA) that passed in February 2009), states have been simplifying eligibility requirements and enrollment processes and procedures for Medicaid and CHIP. These changes in state policies and procedures can help boost enrollment, providing access to critical health care for children in challenging circumstances. Sometimes relatively minor changes in practice, such as changing the hours of operation of state enrollment entities, staff work rules, or documentation requirements, can make noticeable differences in enrollment.

The federal CHIPRA legislation identifies eight state policies which can help increase coverage for children:

1. 12-month continuous eligibility in Medicaid;
2. no family asset test or administrative, verification of assets;
3. no face-to-face interview requirement;
4. common forms and uniform procedures in Medicaid and CHIP;
5. administrative renewal;
6. presumptive eligibility;
7. Express Lane Eligibility; and
8. premium assistance in CHIP.

States which implement five of the eight policies and meet enrollment targets are eligible for "performance bonuses" to help offset the costs of enrolling additional children. By 2010, all of the Southwestern states had adopted at least one of these policies, and two states – Colorado and New Mexico – had earned performance bonuses totaling \$33.2 million (Table 1). In 2010, Colorado also raised its CHIP income eligibility level to 250% of the federal poverty level (\$46,325 for a family of three in 2011).

Table 1: Simplified Enrollment and Renewal Procedures in Children’s Regular Medicaid, CHIP-funded Medicaid Expansions, and Separate CHIP Programs 2012¹²

State	12 Month Continuous Eligibility	Joint Application	Face-to-Face Interview Not Required (Medicaid/ CHIP)	No Asset Test (Medicaid/ CHIP)	Presumptive Eligibility (Medicaid/ CHIP)	Administrative Renewal	Express Lane	Premium Subsidy in CHIP
AZ		Y	Y/Y	Y/Y				Y
CA	Y/Y		Y/Y	Y/Y	Y/Y			
CO	N/Y	Y	Y/Y	Y/Y	Y/Y	Y/Y		Y
NV	N/Y		Y/Y	Y/Y				Y
NM	Y		Y	Y	Y	Y		
TX	N/Y	Y	Y/Y	\$2,000 \$10,000				Y
UT	N/Y	Y	Y/Y	\$3,025 Y		N/Y		Y

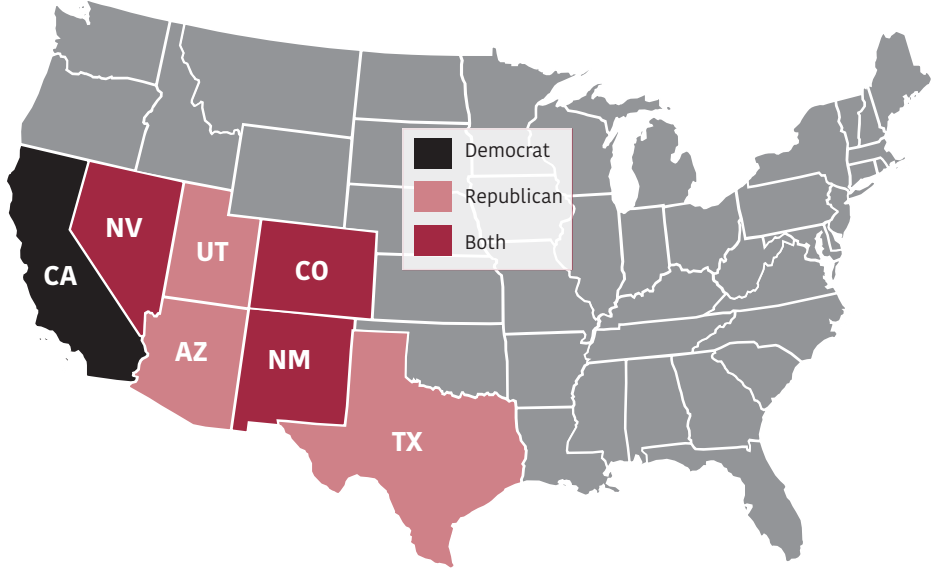
CHIPRA also provided increased funding for Medicaid and CHIP outreach and offered federal matching funds to help states cover legally residing immigrant children and pregnant women in Medicaid and CHIP, without a five-year waiting period. In addition, CHIPRA offered states other important tools and strategies to boost enrollment in Medicaid and CHIP including: the highly efficient option of verifying citizenship through an electronic data match with the Social Security Administration database; and Express Lane Eligibility, which allows states to enroll or renew children in Medicaid or CHIP by relying on eligibility information from other income based public programs. As of January 2012, four of the Southwestern states had taken up the legally-residing immigrant coverage option and all were doing some form of electronic citizenship verification, but none had adopted Express Lane Eligibility. CHIPRA’s impact was so profound that, in the three years since it was enacted, the number of children in the U.S. with coverage increased by 1.2 million, reducing the children’s uninsurance rate to record lows even as the uninsured rate for adults increased.

Looking to the future, the Patient Protection and Affordable Care Act (ACA), enacted in 2010, builds on CHIPRA to provide many more coverage opportunities, including important reforms in the private health insurance market for both children and adults and the expansion of Medicaid for low-income adults, which will also benefit many parents and parents-to-be and their children.

There are, however, a number of issues which may make further progress on children’s coverage challenging. These include a persistently weak economy and accompanying state and federal budget shortfalls, which make it difficult to finance program growth and sometimes even sustain established and efficient programs. In addition, a highly partisan political environment has undermined support for the ACA, also called “Obamacare,” and created legislative gridlock at the federal level and in some states. This partisanship is evident in the Southwestern states as well (Figure 2): in three, Republicans control both the legislature and the governorship. In one, Democrats control both branches of government. And in four, control is split between the two parties. Lastly, although the recent Supreme Court decision upheld key pieces of the ACA, the finding that the Federal government could not penalize states for failing to take up the required Medicaid expansion for low-income adults effectively made that important ACA provision optional. Although there is strong opposition to the expansion in some states and support in others, the majority of states appear to be taking a “wait and see” approach to date, creating uncertainty about how the issue will play out and where children and families will benefit from Medicaid expansion.

With all of these factors at play, we convened via teleconference two focus groups of advocates from five of the seven Southwestern states. These conversations, on July 9th and 10th, 2012, explored the recent gains made in advancing children’s coverage in those states, lessons learned from their experiences, and prospects for future gains – including their “big” ideas. The participants included Karen Crompton from Voices for Utah Children, Anne Dunkelberg from the Center for Policy Priorities (Texas), Kelly Hardy from Children Now (California), Matt Jewett from Children’s Action Alliance (Arizona), and Bill Jordan from New Mexico Voices for Children. All participants were affiliated with organizations which are or had been grantees under the David and Lucile Packard Foundation’s Insuring America’s Children grantmaking strategy. The focus group conversations were recorded, transcribed and edited for length and to help draw conclusions and highlight the key points. A summary, interspersed with verbatim quotes from the focus group participants, is presented below.

Figure 2: Political Party Control of State Government, August 2012¹¹



Historical Perspective

The conversation opened by asking the participants to comment on the most important gains in child and family coverage in their state in the last five years. All participants first cited the reversal of policies that restricted enrollment in their states' Medicaid and CHIP programs as key advances. Some of the restrictions were enrollment practices per se, while advocates from three states cited success in lifting caps on CHIP enrollment in their states.

Bill Jordan (NM): During the period 2002 to 2004, we had a number of cost containment measures put into place which limited enrollment in our Medicaid and CHIP programs. One was to go from 12 month continuous eligibility to six-month eligibility. And the second was an auto closure policy, which meant that if parents did not reenroll or recertify a child's eligibility immediately at the end of the six month period, the computer would automatically disenroll the child. To reinstate the child, parents would have to start the whole application process over again.

As a result, we lost about 30,000 kids from Medicaid and CHIP. But about five years ago, when Governor Richardson started to campaign for president, he reversed those harmful policies. And over the next couple of years, enrollment went back up by over 30,000 children and so that was very, very helpful. And he did that under a lot of pressure from advocates, and a lot pressure from the legislature as well.

Anne Dunkelberg (TX): In the last five years, our biggest accomplishment in terms of the size of the impact is similar – in that we took the state from a near total collapse of the eligibility system to near full recovery that, as of today, also involves the ability to apply and renew online as we continue to modernize. We went from being in violation of federal timeliness standards to a very high level of performance. And in the pipeline is the use of online application for renewal, we also created a kind of community based navigator program for Medicaid and CHIP. In addition, we also had CHIP coverage restored to a 12 month continuous eligibility period after it had been reduced to six months for a period of several years by the legislature.

Karen Crompton (UT): I think one of the most significant commitments our state made to children's coverage was eliminating the cap on CHIP enrollment, which had been in place since 2002. As a result of the cap, there had been very limited opportunities to enroll, sometimes as short as five days out of a year. But in 2008, the legislature unanimously approved lifting the enrollment cap. The governor signed it and it instructs the Department of Health to enroll all eligible children who apply, so that was probably the biggest commitment they'd made to child health since the original passage of CHIP.

Matt Jewett (AZ): We also opened our CHIP program KidsCare after enrollment had been frozen for over two years. We are using a limited amount of funding from an intergovernmental transfer of funds from hospitals to the state, matched with federal CHIP funds, to bring in 25,000 additional kids into the program. But once we fill those slots, we will go back to having a waiting list, and our experience has been that initially enrolling the additional kids was very slow because after over two years the waiting list was not very useful.

Kelly Hardy (CA) also cited elimination of the cap and waiting list from the state's Healthy Families program as a big win and acknowledged that "waiting lists are bad. I think that's a good takeaway. They create a lot of confusion and disruption and misinformation among families."

In addition to Anne Dunkelberg (TX), several others including Kelly Hardy (CA) and Karen Crompton (UT) cited enrollment simplifications and implementation of electronic enrollment systems as important advances.

Matt Jewett (AZ): Number one was our electronic application for our CHIP and Medicaid programs, which went online first for the Community Health Centers and other organizations. Then in December of 2008, the electronic application was released as a public access website that people could use on their own. It was a soft launch and not promoted at all, but this application found much more acceptance among the public than was anticipated. And the state found it difficult to keep up with enrollment, but they did see a strong increase in enrollment after the online application was implemented.

Among other gains cited, Matt (AZ) mentioned a brief period when parents were covered along with their children in CHIP, which helped boost enrollment of children as well. Kelly (CA) pointed to the county Children's Health Initiatives, which "really began a movement for a culture of coverage in which every child should be covered and can be covered. Children just need to come and we'll get you into the right program."

In closing, Karen (UT) focused on some more intangible gains which nonetheless may lay the ground work for continued progress.

Karen Crompton (UT): I think our policymakers have a better understanding of these programs than they did before. Almost any time somebody talks about Medicaid in a committee hearing, they reference that they know that most of the enrollees are kids, which I think is a huge step forward in how they think and talk about the programs.

But I also think a real important step is that the state has not tried to move backwards in any way, in terms of coverage. Even before the MOE, they didn't try to reduce eligibility or change the program. Obviously now there's the Affordable Care Act MOE in place, and even though it doesn't necessarily lead to the outcomes of getting every kid covered, it was a general commitment to this program of getting kids covered. So I think those are the big things.

Despite the cut in state funds for outreach, this year we worked with the two providers for the CHIP program in our state, Molina and SelectHealth, to get support for aggressively doing outreach, so that was another way to find funds to do what the state isn't able to do right now or has chosen not to do.

Participants cited effective coalition building, policy advocacy and good relationships with state and federal officials as the important factors that made those gains possible.

Bill Jordan (NM): You know I think that there was a lot of pressure from advocates when we were able to show the large decline in enrollment. We were able to make a pretty strong case that it was a harmful policy and should be reversed. It certainly helped that the Governor was running for president and that healthcare was a major issue. So I think he wanted a little better record to show for it and began enrolling kids much more easily in the last year or two of his administration.

Matt Jewett (AZ): I would say probably the fact that we had some great partnerships with community organizations, but that we also had some investments by organizations inside and outside of Arizona in purchasing ad time and going out and getting some major spokespersons. We had a pitcher from the Arizona Diamondbacks who served as one of our spokespersons.

Today, as we're doing outreach again, trying to get kids back into our CHIP program, our state Medicaid agency actually came to us and said, we don't have people to answer the phones anymore so we can't do that, and we need you to do that for us. And it's fortunate that CMS had given us a grant under CHIPRA to do outreach because the hotline that people call is operated by the community organizations that have the CHIPRA grant from CMS. It's important for people to call when they have questions. It's better if it's the people who are doing the enrollment, i.e. the state Medicaid agency, but there needs to be someone.

Anne Dunkelberg (TX): Obviously one of the great things about working on kids' health is that you do and can attract such a diverse crowd of different kinds of folks who feel really good about supporting it. And the work we had done with the Narrative Communications Project helped us build that over the last few years.

But also we were fortunate that there are federal authorities, in particular on the Food Stamp side of the equation, who actually will complain to states when eligibility systems collapse. And since we have an integrated system here in Texas for all our benefits, when it collapsed it didn't just take down Medicaid and CHIP, it took down Food Stamps too. So the Food Stamp authorities helped us by putting pressure on the state, and our legal services community helped us by filing a class action lawsuit ... so, it helped that we had cover from potential fiscal penalties for the things the state was doing wrong. It helped that there was actually a lawsuit that the state was going to have to deal with. It helped that constituents were complaining directly to their legislators about it. All of those things helped create the momentum for change. And then it helped enormously that all of that pressure, I think, led to a new Health and Human Services Commissioner coming on, who made it his first and top priority to reform the collapsed eligibility system.

Kelly Hardy (CA): I think that pulling in the doctors and business groups and some of the heavier hitters always helps our cause. And family stories have been particularly important for us with the media and in using social media as well. Being able to get coverage because it is such a big state, really being able to get media stories that resonate emotionally and can be used to pressure decision makers.

Relationships with the agencies at the state level have also been very important. Relationships with CMS officials, particularly in the past couple of years have been super important, those formal relationships and also the ability to get more informal reads and guidance on things that the state is doing.

Participants all agreed that tight state budgets were an on-going challenge, although Karen from Utah acknowledged her state's budget was not that bad. Bill Jordan described the impact of the recession on the state budget.

Bill Jordan (NM): Well the budget issue clearly is the biggest challenge. In the last five years, we've had a difficult time with the recession, and that has put the crunch on state budgets. But it's also increased the demand for services and programs like Medicaid for low-income kids and

families. So we've been squeezed from both sides and I would say that even before the budget crunch and the recession, we were already facing a bit of a mantra, if you will, from lawmakers that the Medicaid budget was growing faster than anything else. That it was a runaway train. That it was out of control, and so they were already looking at ways to try to contain costs or cut the program. So I think the challenge was to both talk about the financial effectiveness of the program – that it had low cost, low overhead, low administrative costs, that it was a cost effective program – but also to talk about the importance of coverage for kids and to try to keep both of those arguments front-and-center and not be drawn into the other side's argument that it was that costs were out of control or unmanageable.

Other challenges mentioned included the loss of champions, rise of “Tea party” politics, breaches in state data systems and other state complexities.

Karen Crompton (UT): We had two real champions who led the effort back in 2008. The Speaker of the House at that time, Greg Curtis, was the one who carried the bill to eliminate the waiting period. He lost his election that fall – but not because of this – and we also lost Governor Jon Huntsman, who might have taken Utah on a path to look like Wisconsin, but who left to become the ambassador to China. Those were two really big losses. Now maybe we didn't take enough advantage of the window of opportunity we had to move more aggressively while they were still here because we thought we'd have more time with them.

Matt Jewett (AZ): (Another challenge was) losing a governor who was a champion in January 2009 as we were starting to make progress, and replacing her with a governor who is not a big champion for our CHIP program.

Bill Jordan (NM): In addition, the rise of the Tea Party has made effective communications even more critically important to advancing any public policies with regard to providing healthcare coverage for kids and that has I think also been a challenge for us.

Karen Crompton (UT): In Utah, we have two agencies that administer our programs, the Department of Health, that oversees the program per se, and the Department of Workforce Services that does enrollment and has the caseworkers. The two don't always have the same goals in mind and it's been a challenge working between the two agencies in some cases.

Breaches in the security of our state data systems have also had a direct impact on immigrant children and also on all children. Two years ago the Department of Workforce Services had a caseworker who released close to 2,000 names of people who – the worker believed – were illegal immigrants whose children or family members were receiving benefits, whether it was CHIP, Medicaid, or Food Stamps. The state responded and fired the worker and it's been in court, but that's had a chilling effect in immigrant communities. Then just this year, we had a huge data breach in the Department of Health Records for Medicaid and CHIP families, 780,000 records were hacked by Romanians. The state has implemented a credit monitoring program for people who were affected, but again there is concern about what happens with personal information that I share with the state. So there's going to be a period of time of rebuilding trust around sharing information and being willing to step up.

Despite the substantial progress made on advancing children's coverage in the past 5 years, none of the participants were completely satisfied. Three were disappointed that some of the

systems simplifications they had worked on were not achieved while others cited unfinished work on quality and access.

Karen Crompton (UT): Obviously we're not satisfied totally with the accomplishments because we still have too many uninsured kids but we do feel good about what we did get done. This year the state applied to be certified for five of the eight program simplifications specified in the 2009 CHIPRA legislation. They're not the five simplifications we hoped for. Two of the biggest ones that we fought for were not requested including 12-month continuous eligibility for Medicaid and the elimination of the asset test for Medicaid. The legislature did pass a 12-month eligibility "Light" bill during the recent session, which gave the Department permission to move to 12-month eligibility if the Department could prove 12 continuous eligibility is cost effective. So the legislators sort of get why you need 12 months, but they weren't ready to say, "Let's do it," and then again the asset test piece was not one of the five of eight. So we're working ahead and hoping that those policies will move forward prior to 2014 and full implementation of Affordable Care Act.

Bill Jordan (NM): I would say no, because we didn't achieve implementation of Express Lane Eligibility, one of our key objectives, and unfortunately it's still not on the horizon. We also pushed very hard for a data match using personal income tax records from our Tax and Revenue Department. New Mexico did that 10 or 12 years ago, and we were pretty successful with it. But we have not been able to convince the administration to do that data matching again. So we could've enrolled more kids had we been able to get Express Lane Eligibility and the matching of eligible children with tax data.

Anne Dunkelberg (TX): We were certainly very disappointed in 2009 when just on the cusp of passing a CHIP expansion to include higher income kids, the measure got drowned in the sea of the voter ID showdown, which caused over 100 bills to get killed and caused everyone in the Legislature to be at war with everyone else. That was a big loss for us, which looms large as we try to tackle the issue of getting our state to implement the Medicaid expansion under the Affordable Care Act.

Kelly Hardy (CA): In the past, we were too busy focusing on other priorities to focus on deficiencies in quality and access in the Medi-Cal program [California's name for Medicaid], but we're very much focused on those concerns now. We want to ensure that having an insurance card really means something including timely access to quality care.

Anne Dunkelberg (TX): We would like to get to focus on the kinds of issues Kelly mentioned, but Texas is not there yet. What I would really love is to get to the point where coverage is no longer the issue, and we have the time and resources to focus on quality and access within those coverage programs. I think there are many, many issues with respect to that, that simply have to be left on the table because of limited resources, and because we're sort of working at a lower level on the hierarchy of needs. They're very important concerns but we are not going to go work on quality of our HMOs until I can actually get our kids into the HMOs.

Participants cited a number of lessons learned from their work on children's coverage including the value of solid proactive messaging.

Karen Crompton (UT): We found that we've been able to change the language policymakers use about kid's healthcare coverage as a result of the Narrative Communications Project. This is an etch-a-sketch moment for implementation of the Affordable Care Act, and as we look

ahead, messaging again is going to become a huge part of what we do. So this is an opportunity for us all to go back to our earlier messaging work to help shape the discussion on the Affordable Care Act as it moves forward between now and the end of next year.

Bill Jordan (NM): I agree we all could've done better messaging about the Affordable Care Act and the opportunities that it provides. Now that we're going to have to revisit Medicaid for low-income adults under the Affordable Care Act, we're going to get a chance to hit the reset button and try to get the messaging right.

Other lessons that participants cited: "don't count your chickens" (be prepared for the unexpected); and know that circumstances tend to repeat themselves, so advocates need to learn from the past.

Kelly Hardy (CA): A very recent lesson that's top of mind is not to count your chickens before they're hatched. Even if a policy has been approved by every committee in the legislature and it appears to be solid, things can be overturned by political maneuvering at the last minute. You know despite your best intentions and despite working the formal process, sometimes things don't work out the way that you wanted them to. So I guess the lesson is to be as prepared for every eventuality as you can be.

Anne Dunkelberg (TX): The lesson Kelly laid out from California reflects our experience in 2009 when the meltdown in our legislature scuttled the CHIP expansion legislation. And I think one of the things that we've taken to heart is no matter how early we've gotten started working on things and building coalitions and finding allies and partners and trying to educate decision makers and educate the public, we've got to keep starting earlier and earlier and earlier.

I've been doing this for 20 years and have learned that there's nothing but Groundhog Day in my experience here. I have to teach the same lessons over and over again and pull out the same arguments about block grants that we were literally using in the '90's. So yeah, I think the only lesson I have that's really and truly a lesson, is just that I've got to identify and recruit and engage as many partners as I possibly can, as early as I can. And I think the thing that we've learned and benefited from through these projects is just how incredibly powerful it can be to get a lot of different people singing off the same song sheets and using similar language, because we're up against such rabid sound-bite politics here.

Matt Jewett (AZ): I too feel it's Groundhog Day. I feel like whatever it is that you do, learn from it because you are going to be doing it again. And I guess it seems to be the case with a lot of our issues that things go in cycles. We're moving forward and then moving back.

Despite the frustration they all expressed in having to repeat their efforts many times, all of the advocates emphasized being prepared for unexpected opportunities when they materialize.

Matt Jewett (AZ): But I think it's important for us to remember what we did to make the gains, because even when we have setbacks, we're going to have opportunities, and don't give up when there are setbacks, because at some point you're going to have the opportunities to get back to where you were. And hopefully we're actually taking two steps forward and only one step back, and not the other way around.

Kelly Hardy (CA): I think I would just build on what's been said and say that we've learned to really try to be ready for those windows of opportunities that Matt alluded to when they do open. For instance, right now we're trying to leverage the fact that many legislators had concerns and reservations when they voted to move the Healthy Families [California's name for CHIP] kids over to Medi-Cal. So we're trying to seize the window of opportunity to press for improvements in Medi-Cal, rather than spending too much time licking our wounds. I think we need to quickly assimilate what happened and move forward and grab the opportunity.

Future Perspectives

After having reflected on the lessons learned over the last five years, the conversation then shifted towards focusing on the future. Given the recent Supreme Court ruling and the current state of the economy and political environment, participants discussed the future of child and family coverage over the next five years. Participants agreed that states' reaction to the Affordable Care Act ruling, and its implications for implementation, will dictate the future of coverage in their states.

Bill Jordan (NM): We're still not doing well enough on the implementation of the Affordable Care Act and the implementation of the exchange. If New Mexico opts to cover low-income adults in Medicaid, then that'll provide us with an opportunity to really bring a lot more children into coverage. If we don't expand Medicaid to cover low-income adults, then I think we're in real trouble because if the political will is not there to expand coverage to low-income adults, it's certainly is not going to be there to make it easier for children to enroll.

Karen Crompton (UT): The good news is post decision, the state has not said, "There's no way we're going to do a Medicaid expansion," unlike some states. The governor's basic line has been: We need to look at what it will cost... I think the other piece that's kind of positive for Utah, is that Utah has initiated its own version of health reform, kind of a ten-year plan, ahead of what the Affordable Care Act did, so there is that underlying commitment to health reform. The state continues to move forward with that. Utah was one of the first states to create a health exchange. Granted it has some problems, it only takes care of small businesses, doesn't take care of individual markets, but there is that general commitment.

Like Karen, other participants also discussed ways that they anticipated their future work would be impacted. Anne Dunkelberg was optimistic that by using the flexibility of Medicaid waivers, there would be an increased investment in improving access, while Karen Crompton cited the challenge of securing future funding for CHIP.

Anne Dunkelberg (TX): So I think there's going to be a lot of investment in improving access to primary care at the community level, even though it falls far short of the kind of resources that we would gain through direct Medicaid coverage. But I think that we are going to get more and more buy-in and understanding at the community level of the value of having systems of care, of doing these reforms, of having that public investment in those systems.

Karen Crompton (UT): I think looking forward, one of the other challenges we face is the federal funding of CHIP. As you all know, CHIP was reauthorized to 2019 but with funding only through 2015. Given the current budget debate and having to find offsets, funding for CHIP in 2015 could be really hard to do. And if the exchanges are not in place, we potentially end up with a really big problem for those kids.

While other participants highlighted potential challenges moving forward, an exception was Kelly Hardy, who cited California's progress moving forward with Affordable Care Act implementation, and was hopeful about the future.

Kelly Hardy (CA): I think in California I'm optimistic about moving forward to more of this culture of coverage that I was talking about where everybody's in the pool and we have more family based coverage rather than different members of the family getting coverage in very different ways... I'm hoping that we move more towards a true no wrong door approach where there's more customer service to help people get into coverage. I am definitely working on getting to a place where kids have health homes where we're addressing more than just their medical needs, but addressing more of their health needs, so all of the factors that impact health, including medical care, but also dental, social support, food access, housing --that they're able to connect more with the total package of support for their health.

Lastly, Matt Jewett and Anne Dunkelberg agreed about the significant progress their states have made in modernizing eligibility systems, creating a foundation for continuing to expand coverage.

Anne Dunkelberg (TX): Like, Kelly, I'm also optimistic especially about the progress that we've made in Texas and modernizing our eligibility system and moving to an online platform. Also, trying to build up our network of community based navigators in our 254 counties, is something that can help us out going forward.

Matt Jewett (AZ): I would really not underestimate the role that modernizing eligibility plays as we talked about that being a big part of our gains the last five years, and we're going to see even more if things go as they are supposed to go, where you have real-time eligibility, versus being able to take up to 45 days for an application. I think that when they talk about the "woodwork" or "welcome mat" effect part of that is that if you have people who get enrolled more quickly, you're going to have more people enrolled.

Participants then discussed the political implications of the upcoming national and state elections on their future state advocacy work. All participants agreed that if the Republican presidential candidate wins the national election, moving forward will be more difficult as the election may be interpreted as a referendum on the health care reform law. As the Affordable Care Act and Medicaid coverage have become central issues during the 2012 election season, advocate Bill Jordan best summed up participants' sentiment on how critical the presidential election will be:

Bill Jordan (NM): The outcome of the election for better or for worse, will likely be interpreted as a desire on the part of the public to move forward with healthcare reform implementation or not. And that certainly is going to play out politically at the state level for all of us.

Each participant also projected how current state legislature compositions and upcoming state elections will impact the future of their work. Some states' electoral probabilities posed threats to continued progress, while others offered opportunities. Karen Crompton emphasized the importance of finding opportunities to develop new champions within the legislature:

Karen Crompton (UT): I think we have an opportunity to find champions. As I said, I think it was maybe a missed opportunity for us with the loss of Huntsman and our speaker of the house that we didn't have more champions in the queue if you will. But we've recruited a couple of Republicans who are both involved very deeply in the Utah health reform piece, who may be carrying legislation in the next session, one around waving the five-year waiting period for immigrant children and the other one to wave the asset test. They both have a good track record of getting bills passed... So that's an opportunity for us moving forward to have some new voices.

Participants then offered their “Big Ideas” on child and family coverage for the next five years. Participants’ ideas were grounded in the somber political and economic situation facing many of their states. Nevertheless, these ideas represent a commitment from advocates to move forward. First, Karen Crompton and Anne Dunkelberg discussed moving forward independently of Affordable Care Act implementation and the outcome of the 2012 election.

Karen Crompton (UT): Our big idea is that regardless of what happens with the Affordable Care Act, we can still move forward on the job of covering all kids with current programs – or covering nearly all kids. So I think that's an important takeaway. And to a certain extent – at least right now while the wounds are still fresh from the Supreme Court ruling – to not put it in the context of the Affordable Care Act but that we have the tools, we need the commitment to get the job done. So that's part of the big idea going forward. The other big idea we have is as Utah's government develops its exchange to encourage them to really go to that no wrong door approach. That we don't want to settle for the SHOP (Small Business Health Options Program) exchange. That we want to be sure that people know what their options are in the private market or whether they're eligible for a public program, CHIP or Medicaid, whichever it be. So that's our big goal moving forward, with or without Affordable Care Act. Because right now Utah's SHOP exchange doesn't do anything for the majority of adults who are uninsured in the state of Utah in terms of finding coverage or connecting them with plans.

Anne Dunkelberg (TX): If Affordable Care Act is to go off track, then I think that we might be able to reactivate our earlier efforts to expand children's coverage through CHIP, and to try to create a system modeled more on the Illinois model where there's something for a child at every income level.

The second big idea that participants discussed was creating a more integrated health care system that improves overall access and is better coordinated across other social service systems.

Matt Jewett (AZ): We'd like to move to a system with more integrated coverage options. Because even under health reform, we could still have a system where we're going to have parents who may be in the exchange with or without subsidies with kids who might be in CHIP. Participants in a qualified health plan in the exchange may or may not have a health plan that covers their dental and vision benefits. They may have to go outside to get those, and so it's a system with many, many moving parts, and I think we've found in the past that when we have systems that are very segmented, families fall through the cracks. And so I would say that that's a high priority, making sure that services are as integrated as possible.

Kelly Hardy (CA): And more coordination across programs, with social services programs as well, a more horizontal integration so that if a child is eligible for food stamps and CalWorks

and Medi-Cal, that all happens, and it all happens more or less seamlessly and easily for the family. Expansions of school based health centers, so that we can help all kids who go to school, including undocumented kids. And integration within healthcare so that dental care and mental health are more a part of everybody's picture when they think of health.

Bill Jordan (NM): We need to change the question that we're asking. The question has always been: How do we get kids covered? We now have universal coverage available. The question now is not how do we get coverage for them, the question is where do we cover them, under which program? If we can be successful in changing the narrative to under what program does this child get coverage, we will have been successful.

Related to improving accessibility, Anne discussed her desire to make adult coverage more affordable because ACA subsidies for low-income families in the exchange may be inadequate.

Anne Dunkelberg (TX): So you know probably a big idea in a world where I had the Medicaid expansion and exchange moving forward would be some very dedicated work to make the Exchange affordability provisions work better for families, particularly those with incomes below 300% of poverty.

Lastly, participants were asked to react to the idea of moving to five years of continuous eligibility in Medicaid for young children from birth to five. In general, all participants agreed it was a good idea, but perhaps unrealistic. Bill Jordan cited a current challenge in continuous eligibility for children in New Mexico as an example.

Bill Jordan (NM): One of the policies that we're fighting right now is that when a child is born in New Mexico and immediately gets on Medicaid, they're obviously a U.S. citizen because they're born in the state when they are enrolled in Medicaid as a new birth. But one year later, the state requires proof of citizenship. And we're losing a number of children on their first birthday because the parents can't, or don't provide proof of citizenship in a timely way. So we're advocating with our Human Services Department saying, you know the child is a citizen because they were born here, that's what made them eligible a year before. Can we please waive this requirement? And to date they haven't done that. So you know that if we're fighting at that level, five-year eligibility would be a pretty heavy lift. Then again, I do believe that if we can change the way we think about healthcare coverage in the country and we can begin to talk, perhaps after the election about the fact that the United States now has universal coverage, then the only question becomes under what program are you covered? If we can begin to think about children's coverage, especially in that way, I think many of the questions or many of the strategies that are used to keep kids out of coverage will begin to fall by the wayside. They will be seen as a hindrance to achieving the overall goal of universal coverage.

Next participants discussed strategic ideas that would help achieve their "Big Idea" goals. Participants referenced the earlier discussion on lessons learned to inform and develop new strategies. Throughout the discussion, participants discussed the importance of building coalitions.

Bill Jordan (NM): One of the strategies that we're working on right now is building alliances with the hospital associations, with the medical societies, pediatric societies, family practice doctors, the managed care organizations to build support for the adult Medicaid expansion. That is really number one. And if and when we achieve that, then I think will work with those

same folks who try to get a few dollars in the state budget for outreach and enrollment for children specifically.

Karen Crompton (UT): In terms of coalitions, we see two key players that we're engaging with because of the Affordable Care Act. Community health centers, which we have worked with but maybe not as strategically, who have a big stake in the Affordable Care Act staying intact and the Medicaid expansion, and then the hospitals that lose their DSH (Disproportionate Share Hospital) payments under Affordable Care Act but gain other things as compensation.

Kelly Hardy (CA): Children Now is spearheading a children's movement in California, and that's a way to really activate the many child serving organizations in California that aren't necessarily connected with policy at all to take action on policy issues, and to call the Governor's office. And I think that that is one of our big strategies moving forward for engaging a larger number of allies and also atypical allies in moving our agenda forward.

Anne also acknowledged the importance of coalition building, and emphasized social media as a strategy:

Anne Dunkelberg (TX): In Texas, things are sort of coming together in terms of our ability to bring more people together through online and social media. It's by no means perfect, but our reach is a little better, because of our partners and allies, and we've learned a lot about how to keep things simple enough so that people can be comfortable getting activated. In Texas, we do have not huge advocacy resources, but at least some partners and resources today are true organizing efforts, so we have partners in the 501(c)(4) world who are contributing to these efforts. And that helps because it means that we can have some friends and allies who are able to use tools that aren't available to us 501(c)(3)s

Bill Jordan, Karen Crompton, and Matt Jewett also emphasized budget advocacy and analysis as a strategy to push forward the Medicaid expansion by making "the economic argument." Matt along with Bill highlighted the need for budgetary analysis tied together with a communications strategy.

Matt Jewett (AZ): And I think we need to be prepared to make sure we have good analysis of what the costs and the benefits are; that we have good messaging about why this is something that needs to be done. And I mean my gosh, I remember one of the talking points when we were in the Narrative Communications Project was this is a really good deal, it's a three to one federal match. I mean now it's a nine to one federal match, we should be talking about how great that is when the other side talks about how much this is going to cost.

Bill Jordan (NM): You know a big part of our strategy is a communications plan. Get out the word about the economics of healthcare, get out the word about the importance of healthy child development. We're also doing some racial analysis to show who is impacted and to ensure that we can reduce some health disparities.

Some participants cited candidate education as a strategy, but Matt was the only participant that discussed the importance of voter education and advocacy given the upcoming election.

Bill Jordan (NM): So yes in our state legislature, we've had a lot of retirements this year. We are in for big changes, and we're losing all of our healthcare champions in the legislature. So we're doing a lot of candidate education right now.

Matt Jewett (AZ): I think our strategies are to engage the right folks in terms of building a coalition. But between now and August and between now and November, we need to be engaging voters around issue advocacy, and we need to be doing that in every election, and a lot of nonprofits and advocacy organizations haven't been as good on that.

Participants were then asked to discuss what resources would be needed to make these "Big Ideas" operational. Participants cited resources needed to implement their specific strategies, and ended the conversation with a discussion of resources needed overall to be able to achieve the "Big Ideas." One of the common themes that emerged was using existing resources more efficiently. Bill stressed that no advocate can do this work alone and therefore needed to be strategic in allocation of resources. Illustrating this point, Karen gave an example of a partnership with new funders:

Karen Crompton (UT): The Molina and SelectHealth health plans are partnering with us for our August CHIP and Medicaid outreach enrollment event. It's when we're going to release our new storybook with Medicaid and CHIP families in it. They help defray a lot of the costs associated with the event, and that kind of approach may work for some other events around children's health.

A few participants also discussed using social media as a way to do more with less. Three participants provided examples of how social media is becoming a necessary component of their advocacy work to reach diverse stakeholders.

Karen Crompton (UT): So finding a way to look like we're doing more with the same amount or less is really important. You know Utah is a big state geographically, and to drive around the state to meet with groups of ten people here and there just is not a very efficient use of our time or resources. Is there a way we can create a bigger virtual presence using our social media work? Part of what we're going to try to do with our August event to get a lot of people responding to Facebook and Twitter that day. We're working with MomsRising and our other partners in the state to really engage people so that it looks like something is happening everywhere in the state, even though the focus of it that day is at the Boys and Girls Club in Murray, Utah. There is a statewide presence. And I think that becomes an important part of our work. Probably every state has to deal with that to a certain extent. But in these big states with remote places, we're not going to have second offices.

Kelly Hardy (CA): I'd also add that social media is becoming a bigger and bigger part of our job and that's something that we're just doing a lot of and kind of learning as we go, with the help of many. You know I think there are many funders and others who are willing to help people learn how to best use social media. But it's something that's becoming a bigger part of the advocacy work.

Anne Dunkelberg (TX): You know it's wonderful that we have all these new channels of communication, but we have a lot of people who are only operating on one channel or two channels, and so if we really want to engage diverse partners, we have to be broadcasting on

many different channels and it's sometimes hard to figure out how to bring people together with so many different channels playing out there.

Kelly Hardy and Anne Dunkelberg considered data to be a key resource needed in order to make the case for their Big Ideas. Specifically, Kelly cited the need to tie education and health outcomes together.

Kelly Hardy (CA): We in California are trying to get a better sense of the different sources of data about kids outcomes related to education and health, other metrics of wellbeing, and to get a more global picture, so that we can then see which direction kids are going in a more coordinated way. And I think that that project is underway, and so we are marshaling the resources that are needed in general to do that. But it's a pretty big task to figure out all the different data sources and so that's where that project is at.

Lastly, participants from the two largest states – Texas and California – discussed the dismal status of their state budgets, and additional revenue and reforms that would be needed in order to reach integrated family coverage.

Anne Dunkelberg (TX): Another thing that's huge in Texas, and it probably is in California too, is that there's just no separating state revenue issues from health care access. We have such a horrific fiscal struggle here and such a major structural deficit because of our last two governors both making permanent tax cuts—long-term tax cuts that reduced not just one time tax revenues, but reduced the fiscal capacity of the state. I mean the actual, not the potential fiscal capacity, but the actual revenue generating capacity. So we're so far below what we need for basic services that a growing part of many of our partners' and allies' portfolios right now is trying to devote a portion of our resources to issues around building support for having a rational revenue system that can keep up with the growth of the state. We cut \$5.3 billion out of K-12 education in our last budget, in addition to the stuff that happened with Medicaid and CHIP. We're trying to be part of a broader effort that reaches across a lot of issue and advocacy areas to move forward the support for rational revenue reform.

Kelly cited the recent Healthy Families transfer into Medi-Cal as an example of the state's fiscal challenges. Both Kelly and Anne discussed the importance of messaging in battling state budget discussions that pit key social service programs against one another.

Kelly Hardy (CA): I just want to echo that I think the revenue conversation it's overarching and huge, and the state budget conversation impacts so much of our work. You know we're saving childcare programs by cutting Healthy Families, when those are the same children. And then childcare programs got cut anyway. It was very difficult to be careful with our messaging and to avoid trashing Medi-Cal when you're trying to argue against transitioning more children into Medi-Cal. And so as far as resources go, even though I do feel like we're getting much more sophisticated on the messaging side of things, there's just always going to be challenges and mine fields there that I think we need help navigating.

Anne Dunkelberg (TX): One of the things we have to work on is that we have an elected State Comptroller who's been out on the road telling people that Medicaid is taking money away from the schools. So we're trying to work with our public education allies to say don't pit children's healthcare against children's education. The Narrative Communications Project was the first grant-funded project I probably worked on in which messaging expertise was a

dominant, an integral part of the project. And we have had a number of projects since then with strong messaging support, so obviously there's a lot more attention and thought being devoted to how we talk about these things.

But the struggles around revenue are joined at the hip with the discussion about how we can all contribute to reforming the perception of government. There are obviously a number of different folks working on that challenge out there in the community of thinkers and doers. The Public Works folks are one that comes to mind, but there are other folks as well. And making sure that in our rhetoric we're not trashing government – that we're not contributing to that. We have successfully convinced more and more partners and more and more people are in the boat with us saying to other people, you have to be engaged on this revenue discussion because no progress can be made on your issue without it. Or worse, nothing good could happen unless it's at the expense of something else that is equally critical because our government is so bare bones here in Texas, there's no fat. So I think having those alliances and just making sure that we're not out there making arguments for social goods without there being any system to support those social goods. That makes us look clueless.

Conclusion

Looking towards the next five years, the “Big Ideas” that the five advocates offered reflect their overall desire to improve the culture of coverage by making coverage the “norm” and access to needed care easier. Advocates discussed ways to expand coverage by using electronic enrollment and retention systems and to make care more accessible by expanding the use of medical homes and other models that centralize and coordinate services for families. To implement these ideas, participants referenced key lessons learned over the last five years – most significantly the importance of coalition building, such as partnering with businesses, and identifying key champions like elected officials, as key to the gains made in their states. Participants also highlighted the ability to be flexible and open to innovative approaches to advocacy, such as using social media to expand and target their messaging. These ideas draw upon their individual successes and capitalize on the upcoming opportunities available through the Affordable Care Act.

Nevertheless, their “Big Ideas” are modest and reflect the reality of their states’ budgets and uncertainty surrounding the outcome of the upcoming elections. While these ideas are primarily contingent on successful implementation of the Affordable Care Act, advocates discussed cautiously the future of children’s health coverage within the context of the ongoing political battles that have pitted health care reform and Medicaid against education and other social services as states face weak revenues and limited prospects for a strong economic recovery or tax increases. The implications of the Supreme Court decision on their state-level work were on the forefront of their minds as participants discussed strategies to combat these ongoing challenges. Some advocates felt that the adult expansion of Medicaid is critical for the continuation of progress, mainly because a big driver of getting more kids insured and making the programs work better would be opening them up to parents. In order to successfully move forward, all mentioned the continued need for strong communication and messaging strategies, including the more effective use of social media to build their capacity.

Arguably many of the challenges to future progress on children’s coverage are variants of ones encountered in the past (i.e., the Groundhog Day syndrome discussed in the focus groups). Despite such challenges, these advocates, their organizations and partners have accomplished

much in growing children's coverage in the Southwestern states, and they remain committed to expanding coverage for all kids and their families. It is hoped that both the nation and individual states can move past the current challenges, so we can see continued progress and much bigger ideas in the future.

Endnotes

1. Two-year averages of state data from the Current Population Survey are used in this paper to address the issues posed by small sample sizes in the less populous states. Based on these two-year averages, the overall rate of uninsured children in the seven Southwestern states was 13% in 2009-10, substantially above the rate for the U.S. as a whole (10%) and even more out of line with the rate of 9% for the U.S. when the Southwestern states are excluded. Colorado, with an uninsured rate of 8% in 2009-10, was the only Southwestern state with an uninsured rate below the U.S. rate (excluding the Southwestern states). Lower rates of employer sponsored coverage are a factor in the higher rates of uninsurance in the Southwest compared with the rest of the U.S. Only 49.2% of children in the Southwest had employer sponsored coverage in 2009-10 compared with 57.8% in the rest of the U.S. Only UT and CO, where 68.1% and 60.1% of children respectively had employer sponsored, exceeded the U.S. average in this regard. Source: U.S. Census Bureau, Current Population Survey, 2005, 2006, 2010, and 2011 Annual Social and Economic Supplement
2. Ibid.
3. For more information, see http://www.insurekidsnow.gov/professionals/eligibility/performance_bonuses.html.
4. Cohen RA, Martinez ME. Health insurance coverage: Early release of estimates from the National Health Interview Survey, 2011. National Center for Health Statistics. June 2012. Available from: <http://www.cdc.gov/nchs/nhis/releases.htm>
5. Advocates from Colorado and Nevada were invited to participate in the focus groups but could not because of scheduling conflicts. For more information on Insuring America's Children and grantees, see: <http://www.packard.org/what-we-fund/children-families-and-communities/childrens-health-insurance/insuring-americas-children-states-leading-the-way/>.
6. The American Reinvestment and Recovery Act of 2009, included a "MOE" (maintenance of effort) provision requiring states to maintain coverage for children enrolled prior to the law's enactment.
7. This colloquialism refers to the tendency for reforms designed to expand program eligibility to also substantially increase enrollment of those previously eligible but unenrolled.
8. A provision in federal law that provides enhanced payments to hospitals serving a disproportionately high share of Medicaid patients as a way of helping to subsidize the costs of caring for the uninsured. The rationale for these payments is that hospitals with large Medicaid populations likely also serve large numbers of uninsured patients.
9. A shorthand reference to nonprofit organizations permitted a wide but still limited range of political activities without compromising their tax-exempt status – the term refers to the section of federal tax law under which such organizations are chartered. The term 501(c) (3) refers to nonprofits with more restrictive political activities constraints.
10. Source: U.S. Census Bureau, Current Population Survey, 2005, 2006, 2010, and 2011 Annual Social and Economic Supplement.
11. Color of states represent whether the state is controlled by Democrats, Republicans, or both. Black: governor and state legislature majority both Democrat. Light Red: governor and state legislature majority both Republican. Dark red: governor and state legislature majority are different parties. Sources: Governor data from http://www.census.gov/compendia/statab/cats/elections/gubernatorial_and_state legislatures.html. State legislature data from http://www.ncsl.org/documents/statevote/2012_Legis_and_State.pdf. Map template from: <http://www.ametsoc.org/amsedu/dstreme/extras/bmap.gif>.
12. Source: <http://www.kff.org/medicaid/upload/8272.pdf>; <https://www.dol.gov/ebsa/pdf/chipmodelnotice.pdf>.



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

**COMMUNITY HEALTH WORKERS,
PROMOTORES, AND PARENT MENTORS:**
Innovative, Community-based Approaches to
Improving the Health and Healthcare of Children

by

Glenn Flores, MD

Director, Division of General Pediatrics
Professor of Pediatrics, Clinical Sciences,
and Public Health

The Judith and Charles Ginsburg Chair in Pediatrics

Division of General Pediatrics, Department of Pediatrics,
UT Southwestern Medical Center,
and Children's Medical Center, Dallas, TX

Introduction

Children in the Southwest currently face substantial health and healthcare challenges. Texas has the highest proportion (19%) and number (1.4 million) of uninsured children in the US,¹ and it had the highest number of child-abuse fatalities (222) in the nation in 2010.² California has the highest proportion (20%) of individuals \geq five years old with limited English proficiency (LEP) in the US,³ the second highest number of uninsured children (1.1 million),⁴ the highest number (301,643) and second highest proportion (17%) of obese, low-income, preschool-age children,⁵ and 1.7 million California children (13%) have been diagnosed with asthma at some point in their lives.⁶ Nevada ranks last in the proportion of children receiving care in a medical home, at only 45%, which is significantly below the national average of 58%⁷; it also has the seventh lowest vaccination series coverage rate in the US for 19-35 month olds (at 62.6% vs. 70.5% for the nation),⁸ and one in seven Nevada children has no health insurance.¹ New Mexico has the highest proportion of Latinos (47%) of any state,⁹ the nation's highest teen pregnancy rate,¹⁰ and the second highest child abuse fatality rate.² Arizona is tied for the worst teen death rate in America, at 98 deaths per 100,000 teens,¹¹ has the sixth highest state rate of food hardship for households with children, at 29%,¹² and the second highest teen pregnancy rate in the US.⁹ Colorado ranks 45th in the nation in terms of overall health for children.¹³ Utah ranks 47th in the nation for vaccination coverage of 19-35 month olds and 45th for the number of primary-care physicians per 100,000 persons.¹⁴ Five of the seven states comprising the Southwest region have significant lower proportions of children receiving care in a medical home,⁷ and the top four states for teen pregnancy are Southwestern states.¹⁰ Three of the seven Southwest states (California, New Mexico, and Texas) are minority majority states,⁹ and for children < 10 years old, five of the seven Southwest states both are minority majority and have more Latinos than whites,¹⁵ but racial/ethnic disparities in children's health and healthcare continue to be persistent and pervasive.¹⁶

Children on the US-Mexico border face major threats to their health and healthcare. US border states account for 25% of all deaths among US children 1-4 years old.¹⁷ Over 45% of children in border areas live in poverty, more than twice the poverty rate for children living in non-border areas.¹⁸ Border counties have fewer physicians and nurses that serve children and families (per 100,000 people) than non-border counties.¹⁹

Nevertheless, innovative, evidence-based, cost-effective interventions are available to address these and other health and healthcare issues. In this chapter, we examine how community health workers (CHWs), *promotores*, and Parent Mentors can be used to substantially improve the health and healthcare of children in the Southwest.

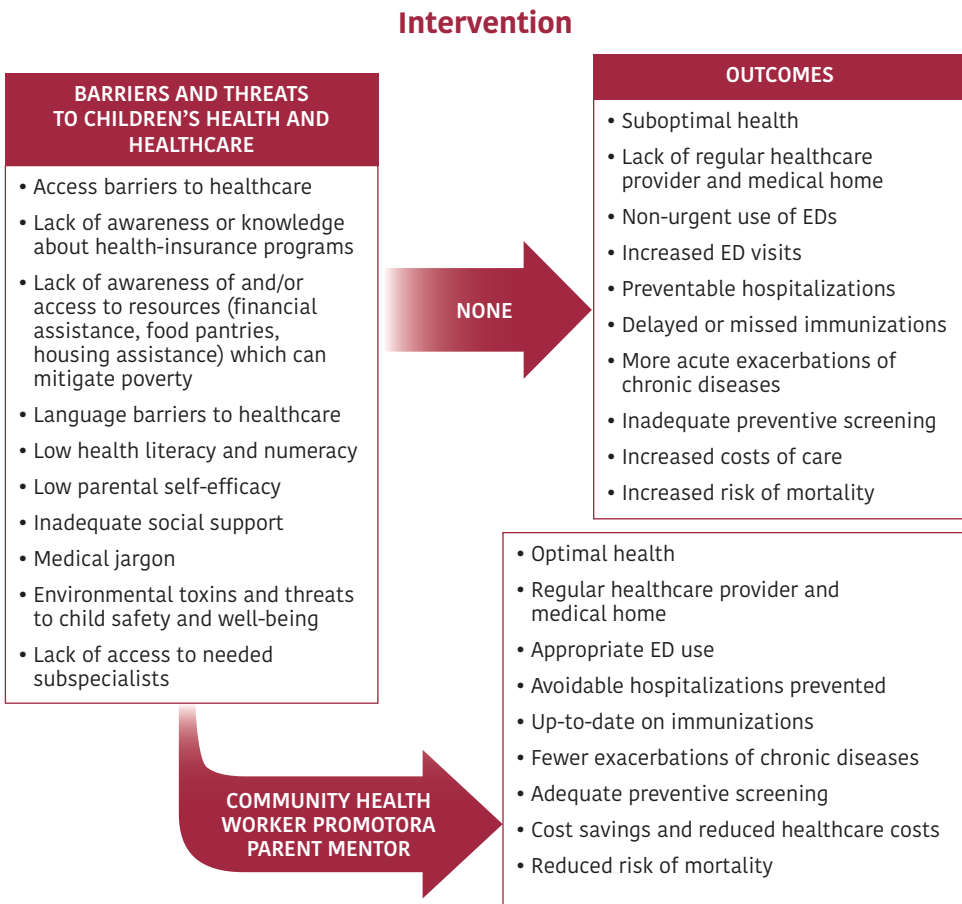
Definitions

CHWs, *promotores*, and parent mentors are all community-based, trained, paid laypersons tasked with improving the health and healthcare of fellow community members through education, linkages and/or referrals to resources and services, and, on occasion, provision of selected healthcare services. *Promotores* are a specific type of CHW who usually focus on Latino communities and additionally can enhance language access to healthcare by acting as interpreters. Parent Mentors are trained parents who bring highly relevant experience and skills by virtue of already having at least one child with the targeted condition or need. There are, however, at least 63 different terms used for CHWs, including community health aid, health outreach worker, lay health advisor, neighborhood worker, paraprofessional, patient navigator, public health aid, and resource mother.²⁰

Conceptual Framework

A conceptual framework (Figure) is proposed to provide an understanding of how CHWs, *promotores*, and Parent Mentors are powerful approaches to improving the health and healthcare of children. There are many barriers and threats to children's health healthcare, particularly for those who are underserved or disadvantaged, including children who are impoverished, racial/ethnic minority, immigrant, living in border areas, or have special healthcare needs or limited English proficiency (LEP). These barriers and threats include a multiplicity of access barriers to healthcare, lack of awareness or knowledge about health-insurance programs, lack of awareness of and/or access to resources (financial assistance, food pantries, and housing assistance, for example) which can mitigate poverty, language barriers to healthcare for LEP patients and families, low health literacy and numeracy, low parental self-efficacy, inadequate social support, medical jargon, environmental toxins and threats to child safety and well-being, and lack of access to needed subspecialists. With no intervention, these barriers and threats place a child at high risk for a variety of adverse outcomes, including suboptimal health, lack of a regular healthcare provider and medical home, non-urgent use of emergency departments (EDs), increased ED visits, preventable hospitalizations, delayed or missed immunizations, more acute exacerbations of chronic diseases, inadequate preventive screening, increased costs of care, and an increased risk of mortality.

Figure. Proposed conceptual framework for how CHWs, promotores, and Parent Mentors improve the health and healthcare of children.



Intervening with a CHW, *promotora*, or Parent Mentor, however, can result in the reduction or elimination of many of the barriers and threats to children's health and healthcare, through education, linking children and families to resources, providing social support (especially through Parent Mentors), eliminating language barriers, and empowering parents. As a result, CHW, *promotores*, and Parent Mentors thereby produce beneficial outcomes for children, including optimal health, a regular healthcare provider and medical home, appropriate ED use, prevention of avoidable hospitalizations, being up-to-date on immunizations, fewer exacerbations of chronic diseases, adequate preventive screening, cost savings and reduced healthcare costs, and a reduced risk of mortality.

What Is the Evidence that CHWs, *Promotores*, and Parent Mentors are Effective?

Evidence for Effectiveness of CHWs

There is extensive evidence that CHWs positively impact children's health and healthcare, particularly in vulnerable populations. Multiple studies document that CHWs result in improved outcomes for children with asthma. A randomized, controlled trial (RCT) in which CHWs provided in-home environmental assessments, education, support for behavior change, and resources to reduce asthma triggers for low-income asthmatic children revealed that, compared with a low-intensity group (a single home visit and limited resources), the high-intensity group (seven home visits and a full set of resources) experienced significantly reduced urgent health-services use and improved caregiver quality-of-life scores.²¹ An RCT of a CHW intervention consisting of an asthma self-management curriculum taught in elementary schools to rural asthmatic children showed that, compared with controls, intervention-group children experienced significantly greater improvements in asthma knowledge, asthma self-management, and metered-dose-inhaler skills.²² An RCT of a community-based participatory-research CHW intervention consisting of home environmental changes to reduce children's exposure to asthma triggers through home visits was found to significantly improve selected lung-function measures, reduce the frequency of certain symptoms, decrease the proportion of children requiring unscheduled medical visits and reporting inadequate use of asthma controller medication, reduce caregiver report of depressive symptoms, lower concentrations of dog allergen in the dust, and increase selected behaviors related to reducing indoor environmental triggers.²³ Another RCT compared in-home asthma self-management support provided by CHWs (including education, social support, advocacy, and provision of mattress covers, special vacuums, and other resources), along with standard asthma education from clinic-based nurses, vs. a control group which received only standard asthma education from clinic-based nurses; the CHW group experienced significantly more symptom-free days and a modest improvement in caretaker quality of life.²⁴ A program evaluation of The Northern Manhattan Community Voices Collaborative, which trains and integrates CHWs who target low-income communities in New York City, revealed that 292 CHWs provided asthma management education to 3,830 children and families.²⁵

An RCT examining the effects of home visits from pregnancy through a child age of two years old compared CHWs ("paraprofessionals"), nurses, and a control group without any visits.²⁶ Two years after the program ended, women visited by CHWs, compared with controls, were less likely to be married and live with the child's biological father, but significantly more likely to work longer, report a greater sense of mastery and better mental health, have fewer subsequent miscarriages and low birth-weight newborns, have greater mother-child sensitivity and respon-

siveness toward one another, and had home environments that were more supportive of children's early learning among mothers with low psychological resources. An RCT comparing intensive case management by CHWs vs. basic case management by nurses and the impact on early-intervention service delivery for a diverse low-income population of children <6 year old revealed that CHWs resulted in a significantly shorter adjusted interval to assessment and significantly more services recommended per child and initiated.²⁷ The Start Right Coalition, a community-based immunization-promotion program targeting children <5 years old in northern Manhattan, used 998 CHWs to perform outreach and immunization education. At baseline, the target population had a mean immunization coverage rate of 63%, well below New York City and national mean coverage rates; after one year, an immunization rate of 80% was achieved, equivalent to the city and national rates, and exceeding that national rates for Latinos and African-Americans, and after five years, an immunization rate of 97% was achieved, surpassing the city and national rates overall and for both racial/ethnic minority groups.²⁸

An RCT documented that CHWs are substantially more effective in obtaining health insurance for uninsured Latino children than traditional Medicaid and CHIP outreach and enrollment, at 96% vs. 57% insured, respectively, and children in the CHW group obtained their health insurance faster, were significantly more likely to be continuously insured, and had parents who were much more satisfied with the process of obtaining coverage for their children.²⁹ A program evaluation of the aforementioned Northern Manhattan Community Voices Collaborative revealed that the 30 CHWs facilitated health-insurance enrollment for almost 30,000 children.²⁵

Evidence for Effectiveness of Promotores

Compared with research on the effectiveness of CHWs, there are far fewer studies of the effectiveness of *promotores*. The available evidence, however, indicates that *promotores* can be effective agents for improving the health and healthcare of children, particularly for those residing in border areas. For example, a team of four *promotoras* from nearby *colonias* was able to provide new insights on food choices made by Latina mothers living in *colonias* in the southern Texas-Mexico border area and the importance of their children in making these choices.³⁰ Another study consisting of 610 interviews conducted by four *promotoras* in 44 *colonias* along the South Texas border area documented child food insecurity in 62% of households with children; factors associated with child food insecurity included birth in Mexico, larger numbers of individuals in the household, parental unemployment, a limited variety of available foods in the community, and a lack of fresh fruits and vegetables where the family shops, whereas participation by the child in a school lunch program and the family purchasing prepared food from friends and neighbors were protective against child food insecurity.³¹

A pilot program on pesticide safety in southern New Mexico trained 16 *promotoras* on why children are vulnerable to pesticide exposure and ways to minimize farm-worker children's exposure to pesticides.³² The *promotoras* conducted 358 visits with 190 farm-worker families to promote children's pesticide safety through home visits, workshops, and distribution of a 16-page Spanish-language comic book on children's risks for pesticide exposure and how to minimize the risks. The project was associated with proportional pre/post increases in knowledge regarding the routes of pesticide exposure, vulnerability of children, signs and symptoms of pesticide poisonings, and ways to minimize pesticide exposures, as well as a post-intervention increase in self-reported safe storage of pesticides in the home.³²

Evidence for Effectiveness of Parent Mentors

An RCT of the effectiveness of Parent Mentors documented that for asthmatic minority children and their families, Parent Mentors can reduce wheezing, asthma exacerbations, ED visits, and missed parental work days, while improving parental self-efficacy in recognizing breathing problems controllable at home.³³ These outcomes were achieved at a reasonable cost, and with net cost savings. A train-the-trainer manual, summary of outcomes, and other resources for this program are available free of charge at: <http://www4.utsouthwestern.edu/ParentMentor>.

Are CHWs, Promotores, and Parent Mentors Cost Effective?

Although few studies have analyzed the costs and cost effectiveness of CHWs, *promotores*, or Parent Mentors, those that have document substantial cost savings. The aforementioned RCT of CHWs for asthmatic children revealed a projected four-year net cost savings per participant in the high- vs. low-intensity group of \$189-\$721.²¹ The RCT of Parent Mentors for asthmatic minority children described above documented an average monthly per-patient cost of only \$60.42, but the incremental cost-effectiveness ratio for the intervention was -\$597.10 per asthma-exacerbation-free day gained, indicating a substantial total cost savings for intervention participants.³³

What are Some Examples of Current CHW, Promotor, or Parent Mentor Programs In Southwestern States?

Our research team currently is conducting an RCT, supported by the Eunice Kennedy Shriver National Institute of Child Health & Human Development, which is evaluating whether Parent Mentors (PMs) are more effective and more cost-effective than traditional Medicaid/CHIP outreach and enrollment in insuring eligible, uninsured Latino and African-American children. A secondary aim is to determine whether uninsured children who obtain health insurance experience improvements in healthcare access, health status, use of services, and other health outcomes.

Subjects are uninsured Latino and African-American children eligible for but not enrolled in Medicaid/CHIP and residing in Dallas County, where 90% of uninsured children are Latino or African-American. Recruitment is focused on the five Dallas regions with the highest proportions of minority and uninsured children, and occurs in a wide variety of community settings, including supermarkets, department stores, public libraries, Goodwill stores, food banks, health fairs, Boys and Girls clubs, churches, schools, Laundromats, and housing projects. Subjects are randomized to PMs or a control group receiving traditional Medicaid/CHIP outreach. PMs are experienced Latino or African-American parents (from the same communities as the subjects) who have at least one child currently covered by Medicaid/CHIP. PMs undergo a two-day intensive training session, and are paired with intervention subjects and their families, for whom they provide information on program eligibility, help families complete and submit insurance applications, act as a Medicaid/CHIP liaison, and assist in maintaining coverage. Controls receive no intervention, other than standard Medicaid/CHIP outreach.

To date, 13,057 potential subjects have been screened for eligibility, yielding 157 participants randomized to the intervention or control group. Interim analyses reveal that 95% of the uninsured children have had health insurance before; the most common reasons for losing the health insurance include expiration without reapplying, being incorrectly told that the family income was too high, the parent does not know why, and missing paperwork. Only 58% of parents were aware that their uninsured children were eligible for Medicaid or CHIP. Almost

90% of the parents of uninsured children reported that they worried about their child's health more than other caregivers, 55% reported emotional worry or concern about their child's health, and only 41% of children had a regular healthcare provider.

Interim analyses already reveal that the PM intervention is significantly more effective in insuring uninsured minority children than traditional Medicaid/CHIP outreach and enrollment. Health-insurance coverage has been obtained by 56% of the children in the PM intervention group, compared with only 23% of the control group ($P<.01$). In addition, regardless of whether or not the child has obtained insurance, parents in the PM intervention group are significantly more likely than those in control group to be very satisfied or satisfied with the process of obtaining insurance, at 87% vs. 40% ($P<.01$), and significantly less likely to be very dissatisfied or dissatisfied with the process, at 9% vs. 32% ($P<.01$).

This ongoing study will recruit 300 participants, and final products will include a train-the-trainer CD-ROM.

Implications For Policy, Practice, and Research

Strong, rigorous evidence documents that intervening with CHWs, *promotores*, or Parent Mentors can reduce or eliminate many barriers and threats to children's health and healthcare, through education, linking children and families to resources, providing social support, eliminating language barriers, and empowering parents; studies additionally indicate that such interventions are cost effective. CHWs, *promotores*, and Parent Mentors therefore can be a powerful means of ensuring optimal health and healthcare for children in the Southwest, while also realizing potentially substantial cost savings for states and health systems. Solid evidence already exists that CHWs, *promotores*, and Parent Mentors are highly effective in managing childhood asthma, reducing miscarriages and low birth-weight rates, creating home environments more supportive of children's early learning for mothers with low psychological resources, obtaining early-intervention services for young children, achieving high immunization rates, insuring uninsured children, identifying childhood food insecurity in border households, and increasing childhood pesticide poisoning knowledge and safe home-storage practices in farm-worker families. As such, CHWs, *promotores*, and Parent Mentors would seem to be some of the most potent public-health tools available to states and health systems for ensuring optimal children's health and healthcare.

Exciting and promising areas for further evaluation by states, health systems, and researchers of the effectiveness of CHWs, *promotores*, and Parent Mentors include prevention of child abuse, management of chronic diseases, enhancing access to language services, increasing the proportion of children with medical homes, improving outcomes for children with special healthcare needs, reducing childhood obesity, improving the school readiness of young children, lowering non-urgent uses of EDs, preventing hospitalizations, and decreasing teen pregnancy. CHWs, *promotores*, and Parent Mentors hold great promise for effectively implementing components of the Affordable Care Act as they are put into action in the coming years, including expanding insurance coverage and ensuring delivery of preventive services for children. And the potential for a "triple" economic benefit make CHWs, *promotores*, and Parent Mentors particularly attractive financially: implementing CHW, *promotor*, and Parent Mentor programs creates jobs, these jobs typically particularly benefit the most economically deprived communities with the highest unemployment rates, and these programs result in cost savings, along with enduring health and healthcare benefits for children.

Acknowledgments

Supported in part by Award Number R01HD066219 from the Eunice Kennedy Shriver National Institute of Child Health & Human Development (NICHD). The content is solely the responsibility of the author, and does not necessarily represent the official views of NICHD or the National Institutes of Health.

Endnotes

1. Children's Defense Fund. Number and percentage of uninsured children in each state. URL: <http://www.childrensdefense.org/policy-priorities/childrens-health/uninsured-children/uninsured-children-state.html> Accessed 7/16/12.
2. U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. Child Maltreatment 2010. Washington, DC; DHHS: 2011. URL: http://www.acf.hhs.gov/programs/cb/stats_research/index.htm#can Accessed 7/16/12.
3. US Census Bureau. American Fact Finder: Percent of people 5 years and over who speak English less than "very well" -United States -- States; and Puerto Rico. Universe: Population 5 years and over. 2008-2010 American Community Survey 3-Year Estimates. URL: http://factfinder2.census.gov/rest/dnldController/deliver?_ts=361711464673 Access verified 7/30/12.
4. Children's Defense Fund. Health Coverage for All Children: California. URL: <http://www.childrensdefense.org/policy-priorities/childrens-health/uninsured-children/uninsured-children-state.html> Accessed 7/30/12.
5. Centers for Disease Control and Prevention (CDC). Obesity prevalence among low-income, preschool-aged children - United States, 1998-2008. *MMWR Morb Mortal Wkly Rep.* 2009;58:769-73.
6. California Breathing, Environmental Health Investigations Branch of the California Department of Health Services. The Burden of Asthma in California: A Surveillance Report. Sacramento, CA; California Department of Health Services: 2007. URL: <http://www.cdph.ca.gov/programs/ohsep/Documents/asthmaburdensummary.pdf> Accessed 7/17/12.
7. Data Resource Center for Child and Adolescent Health. Medical home. URL: http://childhealthdata.org/docs/medical-home/mappacketmedhome_nsch07-pdf.pdf Accessed 7/16/12.
8. Centers for Disease Control and Prevention (CDC). National, state, and local area vaccination coverage among children aged 19-35 months --- United States, 2009. *MMWR Morb Mortal Wkly Rep.* 2010;59:1171-7.
9. US Census. Most children younger than age 1 are minorities, Census Bureau Reports. URL: <http://www.census.gov/newsroom/releases/archives/population/cb12-90.html> Accessed 7/30/12.
10. Guttmacher Institute. U.S. Teenage Pregnancies, Births and Abortions: National and State Trends and Trends by Race and Ethnicity. Washington, DC; Guttmacher Institute: 2010. URL: <http://www.guttmacher.org/pubs/USTPtrends.pdf> Accessed 7/17/12.
11. Annie E. Casey Foundation. 23rd KIDS COUNT Data Book: Summary and Findings. URL: http://datacenter.kidscount.org/Databook/2009/OnlineBooks/AEC186_sum+find_FINAL.pdf Accessed 7/30/12.
12. Food Research and Action Center. Food hardship in America 2010: Households with and without children. August 2011. URL: http://frac.org/pdf/aug2011_food_hardship_report_children.pdf Accessed 7/17/12.
13. Annie E. Casey Foundation. Data Across States: Health Rank (Number) - 2012. URL: <http://datacenter.kidscount.org/data/acrossstates/Rankings.aspx?ind=7248>
14. United Health Foundation. America's Health Rankings 2011: Utah. URL: <http://www.americashealthrankings.org/SiteFiles/StatesSummary/UT.pdf> Accessed 7/17/12.
15. Governing the States and Localities. Data: Minority Children: State Populations. URL: <http://www.governing.com/gov-data/minority-children-state-populations-census-data.html> Accessed 7/30/12.
16. Flores G, American Academy of Pediatrics Committee on Pediatric Research. Technical Report: Racial and ethnic disparities in the health and healthcare of children. *Pediatrics.* 2010;125:e979-e1020.
17. Pan American Health Organization. United States – Mexico Border Area. In: *Health in the Americas, 2007, Volume II - Countries.* Washington, DC: Pan American Health Organization: 2007. URL: <http://www.paho.org/hia/archivosvol2/paisesing/United%20States%20Mexico%20Border%20Area%20English.pdf> Accessed 7/30/12.
18. Texas KIDS COUNTS. Our Border, Our Future: Children and Families Living on the Texas-Mexico Border. Center for Public Policy Priorities. URL: [http://www.cppp.org/files/KC/BorderFamilies\(Scrn\).pdf](http://www.cppp.org/files/KC/BorderFamilies(Scrn).pdf) Accessed 7/30/12.
19. Texas KIDS COUNTS. Our Border, Our Future: Infant Health & Health Care Access in Texas' Border Counties. Center for Public Policy Priorities. URL: [http://www.cppp.org/files/KC/BorderHealth\(Scrn\).pdf](http://www.cppp.org/files/KC/BorderHealth(Scrn).pdf) Accessed 7/30/12.
20. WestRasmus EK, Pineda-Reyes F, Tamez M, Westfall JM. Promotores de Salud and community health workers: an annotated bibliography. *Fam Community Health.* 2012;35:172-182.
21. Krieger JW, Takaro TK, Song L, Weaver M. The Seattle-King County Healthy Homes Project: a randomized, controlled trial of a community health worker intervention to decrease exposure to indoor asthma triggers. *Am J Public Health.* 2005;95:652-9.

22. Horner SD, Fouladi RT. Improvement of rural children's asthma self-management by lay health educators. *J Sch Health*. 2008;78:506-13.
23. Parker EA, Israel BA, Robins TG, et al. Evaluation of Community Action Against Asthma: a community health worker intervention to improve children's asthma-related health by reducing household environmental triggers for asthma. *Health Educ Behav*. 2008;35:376-95. Epub 2007 Aug 29.
24. Krieger J, Takaro TK, Song L, Beaudet N, Edwards K. A randomized controlled trial of asthma self-management support comparing clinic-based nurses and in-home community health workers: the Seattle-King County Healthy Homes II Project. *Arch Pediatr Adolesc Med*. 2009;163:141-9.
25. Perez M, Findley SE, Mejia M, Martinez J. The impact of community health worker training and programs in NYC. *J Health Care Poor Underserved*. 2006;17(1 Suppl):26-43.
26. Olds DL, Robinson J, Pettitt L, et al. Effects of home visits by paraprofessionals and by nurses: age 4 follow-up results of a randomized trial. *Pediatrics*. 2004;114:1560-8.
27. Vogler SD, Davidson AJ, Crane LA, Steiner JF, Brown JM. Can paraprofessional home visitation enhance early intervention service delivery? *J Dev Behav Pediatr*. 2002;23:208-16.
28. Findley SE, Sanchez M, Mejia M, et al. Effective strategies for integrating immunization promotion into community programs. *Health Promot Pract*. 2009;10(2 Suppl):128S-137S.
29. Flores G, Abreu M, Chaisson CE, et al. A randomized trial of the effectiveness of community-based case management in insuring uninsured Latino children. *Pediatrics*. 2005;116:1433-1441.
30. Johnson CM, Sharkey JR, Dean WR. It's all about the children: a participant-driven photo-elicitation study of Mexican-origin mothers' food choices. *BMC Womens Health*. 2011 Sep 26;11:41.
31. Sharkey JR, Dean WR, Johnson CM. Association of household and community characteristics with adult and child food insecurity among Mexican-origin households in colonias along the Texas-Mexico border. *Int J Equity Health*. 2011 May 13;10(1):19.
32. Liebman AK, Juárez PM, Leyva C, Corona A. A pilot program using promotoras de salud to educate farmworker families about the risk from pesticide exposure. *J Agromedicine*. 2007;12:33-43.
33. Flores G, Snowden-Bridon C, Torres S, et al. Improving asthma outcomes in minority children: A randomized, controlled trial of parent mentors. *Pediatrics*. 2009;124:1522-1532.



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY

CHILDREN'S ORAL HEALTH IN NEW MEXICO: Lessons from the Southwest

by

Joanne M. Ray

D.O., F.A.A.P.

Marisol sat on the exam table, ready for her three-year-old checkup, arms in front of her face, nervously pulling her hair in front of her eyes. She is one of my favorite patients because she looks like my granddaughter. Marisol was born in Las Cruces, but her older sister Reyna was born in Mexico. So was their Mom. She lives here illegally, sheltered by the system that protects children born in the United States. They have occasionally been homeless.

Marisol relaxed and the checkup was going just fine until I looked at Marisol's teeth. Three of her top teeth had white lines running across them—signs of demineralization, which leads to decay. I was heartbroken. I'd applied fluoride varnish to Marisol's teeth when she was a toddler to prevent dental caries. Mom said Marisol had already seen a dentist and had another fluoride treatment recently. Her pretty little white teeth were in danger. Would she end up being seen in my office a few months later for a dental pre-operative checkup before she headed for the hospital to have expensive—and dangerous—dental rehab to have steel caps placed over her top teeth?

Even though this situation isn't a good one for Marisol, she's actually one of the lucky ones. Her medical and dental care are covered by Medicaid and she's been seen by a pediatric dentist. Las Cruces, located just 40 miles from the border between the U.S. and Mexico, has several free-standing pediatric dental clinics, plus several Federally Qualified Health Centers (FQHCs) where patients receive dental care, plus two private practice pediatric dentists and several adult dentists who care for children. Her pediatrician applies fluoride varnish. Her Mom, though challenged daily to care for her children, regularly brings her to checkups.

Not all children in New Mexico are this fortunate. Years ago I practiced pediatrics in Carlsbad, which had no dentist who would see small children. Their parents had to drive 180 miles, to Las Cruces, to see our pediatric dentists here. They had to be very motivated to drive that far. That situation is the reality for tens of thousands of children who have no access to pediatric dentistry, or dentistry at all. New Mexico has recognized the challenges to children's oral health and made great strides to improve it, but much work still needs to be done.

This paper will discuss the state of oral health care for children in New Mexico, efforts that have been undertaken, and the challenges that continue to lie ahead. It also will provide an overview of best practices and policy recommendations that can be applied in other areas of the United States that struggle to ensure that all children have access to high quality, comprehensive oral health services.

The Challenge in New Mexico

The combination of geography, poverty and access places children's oral health in jeopardy. New Mexico comprises the fifth largest geographic area in the United States, but has a population of only a little over 2 million (2,059, 129 per 2010 census). More than half of its residents live in small or rural communities. Its largest communities, Albuquerque (pop. 545,852), Las Cruces (pop. 97, 618), Rio Rancho (pop. 87, 521), and Santa Fe (pop. 67,947) are still small by any state standards.¹

Most of the state's families are poor. The New Mexico per capita income in 2010 was \$22,966, compared to the national figure of \$27,334.² The Bureau reports that 18.4 percent of its residents live below the poverty level. As a result, many families receive medical care through Medicaid. The most recent Medicaid figures show total enrollment at 514,927 and children's enrollment at 336,883. This number includes 56,043 Native American children.³

New Mexico is similar to Arizona in that they both have a large Native American population. Many states in the union are seeing an explosion in their Hispanic population. According to the U.S. Census Bureau report cited above,^{4,6,7} percent of New Mexico's population is Hispanic, 40.2 percent white and 10.1 percent Native American.

New Mexico ranks 49th in the U.S. in the number of dentists per 1,000 population. In addition, 69 percent of these dentists are located in the more urban areas. Most small communities have no pediatric dentist. No dentists at all practice in three of the state's 33 counties.⁴

The Reports on the Status of Oral Health Care

The Pew Center on the States, a division of The Pew Charitable Trusts, is an organization that tracks children's oral health, among others. In its 2010 report, *The Cost of Delay*, the Pew Children's Dental Campaign gave New Mexico an A grade.⁵ In the 2011 report, *The State of Children's Dental Health: Making Coverage Matter*, the state's grade dropped to B.⁶

The Cost of Delay was a comprehensive report on dental policies in all 50 states and the District of Columbia. It concentrated on the four core policy areas of Sealants and Fluoridation, Medicaid Improvements, Innovative Workforce Models and Data Collection and Reporting.

Within these broad categories, Pew developed eight evidence-based, cost-effective policies into benchmarks used to grade the states:

- Have sealant programs in at least 25 percent of high-risk schools
- Allow a hygienist to place sealants in a school-based program without requiring a dentist's exam
- Provide optimally fluoridated water to at least 75 percent of residents who are served by community water systems
- Meet or exceed the 2007 national average (38.1 percent) of Medicaid-enrolled children ages 1 to 18 receiving dental services
- Pay dentists who serve Medicaid-enrolled children at least the 2008 national average (60.5 percent) of dentists' median retail fees
- Pay medical care providers through its state Medicaid program for preventive services
- Authorize a new type of primary-care dental provider
- Submit basic screening data to the national database that tracks oral health status

In the 2010 report, New Mexico met or exceeded six of the eight benchmarks. In the 2011 report, it dropped to five.

The national percentage of schools that have a sealant program in its high-risk schools is 25 percent, whereas New Mexico has less than 25 percent. It failed to meet this benchmark in the 2010 report, as well. It has yet to receive a “Yes” score for authorizing new primary care dental providers. In the 2010 report, New Mexico’s share of dentists’ median retail fees paid by Medicaid dropped below the national average of 60.5 percent to an average of 53.5 percent, thereby failing to meet that benchmark.

Benchmarks the state met or exceeded and the national comparison data are:

- Hygienists can place sealants without dentist’s prior exam—Yes
- Share of residents on fluoridated community water supplies—77 percent versus the national average of 75 percent
- Share of Medicaid-enrolled children receiving dental care—49.8 percent versus the national average of 38.1 percent
- Pays medical providers for early preventive dental health care—Yes
- Tracks data on children’s dental health—Yes

The 2011 report noted that just over half of the 50 states earned a grade of A or B, which was an improvement compared to the 2010 report, in which only 15 states earned a grade of A or B. New Mexico is in the company of 19 other states by meeting five of the eight benchmarks.

Only seven states earned A grades: Alaska, Connecticut, Maine, Maryland, Massachusetts, Minnesota and South Carolina. Maryland was the only state to meet seven goals; no state earned a perfect eight out of eight. On the other end of the spectrum, five states (Florida, Hawaii, Indiana, Montana and New Jersey) received an F by meeting two or fewer benchmarks.

A future report would reveal the loss of the fluoridation benchmark. This year the City of Albuquerque, Bernalillo County and Santa Fe all have voted to stop fluoridating public water supplies. (The legality of the Santa Fe vote has been questioned, however, and the issue will be re-addressed this fall.)

The Facts: Decay Is Rampant

The U.S. Department of Health and Human Services Office of Minority Health recently reported racial and ethnic specific oral health data, based on Healthy People 2010 baseline numbers. The national survey data show that Mexican American children aged 2 to 4 are more likely to have experienced dental caries in their primary teeth and on average have more decayed and filled tooth services than either White or African American children.⁷ American Indians/Alaskan Natives in this same age group have 5 times the rate of dental decay compared to all children.

Oral health on the reservation is a significant challenge. Last year the American Academy of Pediatrics said that the poor oral health of indigenous children in Canada and the United

States “is a major public health issue.”⁸ This policy statement echoes the themes in this paper and calls for a unified effort to prevent caries in this vulnerable population.

The Facts: How Children Get Oral Health Services in New Mexico

Dental services in New Mexico are provided by a patchwork of private dentists and clinics, 245 various free and reduced-fee clinics, Federally Qualified Health Center (FQHC) locations, and by the Albuquerque Indian Health Service, which serves Native Americans who belong to the state’s 19 indigenous tribes.

Dental benefits for children in New Mexico who are insured by Medicaid are very basic. Twice a year children up to age 21 may have their teeth examined and cleaned. They may receive fluoride treatments twice a year. Dental sealants may be applied to permanent molars once every five years up to age 20, and space maintainers up to age 20. Restorations, endodontic and periodontic services, extractions, oral surgery and orthodontic services are covered with prior authorization from Medicaid. The state contracts with DentaQuest to provide oral health care services for all children except Native Americans, whose dental care is contracted with ACS, Inc.

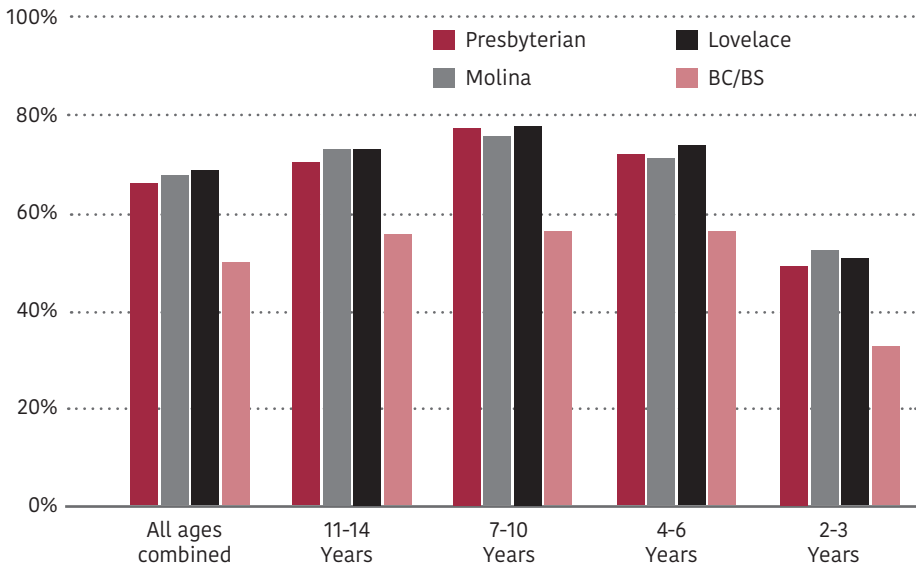
Medicaid for children in New Mexico is provided by four managed care organizations (MCOs), which contract with the state (except for Native Americans). These MCOs are required to track important child health benchmarks through HEDIS (Healthcare Effectiveness Data and Information Set), a reporting system used by most health plans to measure performance and service to insurance recipients.

One of those HEDIS measures is the number of annual dental visits, reported as a percentage of members receiving visits. New Mexico Medicaid changed from fee for service to managed care in 2002, so data are limited and not perfectly comparable. However, the data shows that the percentage of children who have been seen by dentists increased from 2002 to 2009. Newer HEDIS numbers are not available.

The 2002 HEDIS combined MCO rates for annual dental visits for members 4 to 21 years of age was 48.5 percent, 44.1 percent and 53.4 percent, depending on the MCO (that year the state contracted with 3, not 4 MCOs).⁹ That year the national average combined rate was 39.0 percent.

HEDIS numbers for annual dental visits now break down to different age groups and ends at age group 11 to 4 years. An analysis of the data shows that the percentages are increasing, but it is easy to see that younger children (ages 2 to 3 years) receive fewer visits.

Percentage of Children with an Annual Dental Checkup, per Insurance¹⁰



The Arrival of the Department of Health

HEDIS numbers are easy to review, as they are readily accessible through the state's website. Do their numbers indicate an improvement in dental health? Have other programs resulted in improved dental health? This is difficult to determine. In 2009 the Office of Oral Health (OOH), New Mexico Department of Health, studied the rate of dental caries and the number of sealants applied to 1,134 3rd grade children participating in the school dental sealant program. It found that 82 percent had received sealants and 26 percent of the population had active caries.¹¹

Rudy Blea, OOH director, recently reported these unpublished data for 2012:¹²

- So far this year, 7,724 children had received a dental screening for a sealant and 6,524 received a sealant
- 2,722 children received an application of fluoride varnish
- 4,390 children were diagnosed with caries
- Children receiving treatment at the end of the 2011-12 school year numbered 1,213

Some of the children receiving the above-reported services are enrolled in the novel DOH Case Management Program, which may be the only one in the country, according to Blea. The OOH partners in this program with the Family Health Bureau and Children's Medical Services.

Begun seven years ago with a Health Resources and Service Administration (HRSA) grant, the program has achieved longevity with state General Fund monies. It features the work of two dental case managers who currently work in the northern New Mexico Counties of Rio Arriba and Santa Fe, and is just now expanding into the state's most populous county, Bernalillo.

Blea stated the program sends dental case managers to low-income and non-insured children participating in Head Start and Pre-K programs. Parents of these children are given oral health education training, including nutrition, dental hygiene and injury prevention. Formal dental screenings are provided (by a contracted dentist) and fluoride varnish is applied. If a child is identified to have early caries, the case manager links his or her family with an oral health provider in community or federal clinics or with a private dentist. The child is followed until the caries improve. In Rio Arriba County the local dental contractor becomes the home for uninsured children.

In a similar fashion, elementary students participating in a dental sealant program in Northern New Mexico receive limited dental case management services for those students in need of care, Blea said. Three teams of case managers travel to over 125 elementary schools located throughout the state, where hygienists apply the sealants to permanent molars. In this program, also, contact is made with parents if caries are detected.

Though the case management programs have been hampered by the lack of an epidemiologist to produce hard numbers, Blea said the data shows that the rate of caries in the target areas has decreased.

The State's Strategic Plan on Oral Health Care

In its Comprehensive Strategic Health Plan for 2008, the DOH integrated Oral Health as one of its top goals.¹³

It identified these goals to improve oral health: Enhance the infrastructure of the state's oral health system, increase access to oral health care, and improve the perception of oral health. It reported that over 8,100 children participated in the dental sealant program in 2007-2008; over 16,000 uninsured children and adults received comprehensive dental services through the OOH; and that DOH-funded primary clinics listed 13,000 encounters.

The 2008-2010 Progress Report (September 2010) is the most recent published report. It touted the establishment of the state Oral Health Advisory Council (by then-Governor Bill Richardson), which allied public educators, dental associations, state government and health advocates to develop strategies to improve oral health access. Progress was seen in the fluoride varnish and dental sealant programs, but this organization has since been disbanded.

Blea said the next version of the Strategic Plan includes Goal 3 (Improving Health Systems): "Create an oral health system that provides children, low-income rural populations and people with developmental disabilities with preventive and restorative oral health services." Its strategies include advocacy for a dental therapist program and coverage for oral health services in all health insurance plans, to provide fluoride varnish and sealants to all children to 18 years of age, and to assess the impact of the Rural Health Practitioner Tax Credit Program, which provides dental professionals tax breaks for service to those in underserved areas. Improving access to oral health for adults will be targeted in the 2014 Strategic Plan.

Unique Programs Improve Care in New Mexico

Dental Support Center

New Mexico is the only state in the country that has a Dental Support Center, which provides both training and technical support for dental providers serving in rural areas and community health clinics as well as a network of communication for dental educators throughout the state, according to coordinator Carl Hanson.¹⁴

This unique organization, housed at the DOH Public Health Division (/Health Systems Bureau, Office of Primary Care and Rural Health), began in September 2009 with a 3-year grant from HRSA to support oral health workforce activities. Its organization is based on a successful model established by the Indian Health Service.

Hanson said that during the past three years, the Dental Support Center has become a valuable resource for dental providers and has linked state government and private dental practitioners. She lists these accomplishments:

- Established, maintained and updated database and electronic distribution lists of dental providers working in rural areas and Community Health Center clinics and dental educators throughout the state
- Held quarterly provider meetings and published monthly newsletters in partnership with the New Mexico Primary Care Association
- Coordinated and facilitated annual meetings and periodic conference calls for dental educators
- Sponsored continuing education conferences and provided scholarships for 37 dental providers and dental residents to attend these conferences
- Conducted 16 face-to-face meetings with dental providers
- Provided technical assistance to over 80 providers
- Funded prevention projects in two clinics

The brand-new project had a slow start-up and faced administrative challenges, including a state hiring freeze, but it continues to solidify its database of dental providers, Hanson said. All in all, she feels the project was successful and she hopes it receives continued funding. The grant cycle ended this summer.

Special Needs Code

If my little patient Marisol had a progressive neurological condition that prevented her from understanding the simple commands from a dentist, or if she couldn't tolerate the light inhalation anesthetic given to children in dental offices, she would have to face general anesthesia for a simple teeth cleaning. Taking care of her in a private dentist's office would be extremely difficult, and it probably wouldn't happen.

New Mexico also is a ground breaker in this arena—more efficient dental care with increased payment for dental services to the developmentally disabled. New Mexicans with special health care needs are able to receive dental care because of the New Mexico Special Needs Procedure Code (SNC).

The code was created in response to a change in care for the developmentally disabled in New Mexico. Legal proceedings during the 1980s and 1990s led to the relocation of the residents of the state's two institutions for the developmentally disabled to community settings.¹¹⁵ Providing dental care to these citizens became problematic, as private dentists were unprepared to care for them.

Ray Lyons, director of the dental clinic at one of the institutions, worked with the state Medicaid program to develop a strategy to educate dentists in the care of the developmentally disabled and to pay them for the added time and costs involved in their care.

The SNC pays dentists contracted with Medicaid an enhanced fee to provide dental care to persons with developmental disabilities after completing online and in-person training. Since its inception in 1995, 57 dentists have completed the training and have been certified to bill the code. During the course of the program, over 37,000 patient visits have been supplemented by the SNC. In the beginning, the code paid \$85, but by July 2007 it had increased to just more than \$97.¹⁶

Getting Heads Together

The Dental Support Center and the Special Needs Code, to mention just two, are the result of an impressive, 15-year collaboration between a diverse group of organizations dedicated to improve oral health—the New Mexico Oral Health Advisory Council.

Work by council members—not a sole governmental entity or advocacy organization—has been far-reaching in its advocacy and long-lasting in its results. Members include these organizations: Department of Health (Primary Care/Office of Rural Health), New Mexico Health Policy Commission, State Human Services Department, Medical Assistance Division, Delta Dental of New Mexico, New Mexico Dental Association, University of New Mexico Dental Department, New Mexico State University (NMSU) Dental Assistant Program, Mira Consulting and the New Mexico Dental Hygiene Association.

A legislative memorial passed in 1997 set the groundwork to establish the council. Two subsequent summits, sponsored by New Mexico Health Resources, HRSA and the New Mexico Primary Care Association, were held and the council was launched. It is different than Gov. Richardson's Council, previously mentioned.

It has met quarterly since then with the common goal to improve access to oral health care in rural communities. It has an impressive list of successes, primarily because of its non-partisan focus on the state's needs overall, according to Jerry Harrison, executive director of New Mexico Health Resources.¹¹⁷

The list of accomplishments is long. Some included here have been mentioned previously in this article:

- Establishment of a “Pre-Dental Society” at UNM and NMSU that has led to increased enrollment of students at dental schools
- Creation of a dental residency at UNM
- Increases in Medicaid payments to dentists and establishment of the SNC
- Active recruitment of dentists to rural and underserved areas
- Increases in state support for dental students through the Western Interstate Commission on Higher Education (WICHE)
- Addition of dentists and dental hygienists as approved health professionals supported with funds through the DOH New Mexico Health Services Corps
- A near doubling of the number of community health center sites providing oral health services to 42
- Inclusion of dentists and hygienists in the DOH Rural Income Tax Credit Program
- Creation of a “collaborative hygiene” program that allows hygienists to practice within their scope of practice and act outside of the presence of a dentist
- Creation of two new dental hygiene programs
- Development of the dental therapist model
- School of Dental Medicine feasibility study

Fluoride Varnish for the Littlest Ones

The pediatricians of New Mexico have joined the effort to prevent dental caries by establishing a fluoride varnish program for the littlest of children—babies and young children up to age 3. Dental caries prevention in this age group had not been targeted by any organization before.

Their work reflects that of pediatricians all across the country, led by the AAP, to establish fluoride varnish programs and payment for application of varnish in private medical practices and clinics. Nationally, more than half of the states have these fluoride varnish programs, according to Karen Carson, president of the New Mexico Pediatric Society (NMPS), the state AAP chapter.¹⁸

In New Mexico, the effort was led by the Pediatric Society’s Pediatric Council, an organization of pediatricians, medical directors of the state’s Medicaid MCOs and private insurers and governmental officials. The Council chose application of fluoride as a project five years ago and just this summer noted that payment for varnish application by all Medicaid payers finally became universal.

The Council showed the four MCO medical directors that application of varnish to babies and young children significantly reduced the incidence of dental caries and thereby decreased the financial burden of costly oral rehabilitation borne by the insurers.¹⁹ One by one all of the MCOs save one adopted the D1206 code for pediatricians, which before had been covered for payment only by dental providers.

The lone holdout agreed to pay for varnish application July 1st. Carson said it was a difficult project to tackle, especially during an economic recession. Non-universal coverage severely hampered the adoption of the Society's effort to establish a statewide program. Payment for varnish currently is considered an enhanced benefit and as such is taken out of the MCO's discretionary budget. The Council continues to advocate for inclusion of payment as a Medicaid covered benefit and was joined in the quest this year by the New Mexico Medical Society.

The program pays for varnish application every three to six months from the eruption of first tooth to three years of age. Carson pointed out that the pediatricians don't bill for an oral health assessment, though a brief assessment is part of the varnish application. The New Mexico Dental Society supported this project.

Scattered practices throughout the state had adopted their own varnish programs despite the non-universal coverage. Now that payment is universal, the NMPS is considering the best way to recruit and educate family practice physicians so they, too, can establish varnish programs.

What, No Dental School in New Mexico?

New Mexicans who wish to become dentists must travel out of the state, as New Mexico does not have a School of Dental Medicine (SODM). Many of those who leave don't come back, compounding the access problem, especially in rural communities.

Education of dental providers in the state of New Mexico consists of training dental hygienists and general dentistry residents at the UNM School of Medicine (SOM). Dental students receive financial support from the state through its collaboration with WICHE. About 36 students participate in the WICHE program (nine students per year for the four-year dental school programs). Students who complete the program are contractually obligated to return to New Mexico for at least one year.²⁰

Recognizing the need to educate New Mexicans in their own state, a feasibility study was undertaken in 2010 with the support of Sen. Jeff Bingaman and published during the term of former Gov. Bill Richardson. This study recommends a five-part strategy. It features the education of 40 dental students, recruited primarily from disadvantaged and rural backgrounds, at the UNM SOM during their first two years, following by intensive training in dental clinical sciences and preclinical technique at the SODM. Clinical training would continue at dental school clinics, safety net clinics and at private practices during their last two years.

Additionally, the general dentistry program at UNM would increase from 10 to 25 students and residency programs in Pediatric Dentistry and Oral and Maxillo-Facial Surgery would be established. The SODM would build four regional multi-chair FQHC clinics in rural areas of the state and establish a telemedicine consultation system to serve safety net and private practice dentists.

Regardless of the completeness of the paper and its recommendations, it remains just a paper document under the administration of Gov. Susana Martinez.

Dental Therapists Would Improve Access

If New Mexico can't produce its own, home-grown dentists, it could at least partially solve the access problem by allowing dental therapists to practice, some organizations feel. (This lack of a mid-level dental provider is reflected in the Pew Report.)

The advocacy organization Health Action New Mexico, joined with the Oral Health Advisory Council, has led the effort to create this new mid-level practitioner. A bill to recognize dental therapists under the Dental Practice Act failed to pass during the 2011 state legislative session.

The New Mexico proposal is modeled after the Alaska program, which has sent dental therapists to remote Alaskan tribal villages since 2006. A dental therapist, as proposed, would work under the general supervision of dentists to provide services to rural and tribal communities. Three years of training would be required. Dental hygienists, some of whom have received additional training and have been certified to perform limited work in rural areas under the supervision of a dentist, could rapidly become full-fledged dental therapists, rapidly increasing the number of providers.²¹

New legislation has been written and will be introduced in the 2013 State Legislature. State advocates have been joined by Community Catalyst on The Dental Therapist Project, supported by the W.K. Kellogg Foundation. It is also working with advocacy groups in Kansas, Ohio, Washington and Vermont.

The New Mexico Dental Association (NMDA) vigorously opposed the 2011 legislation. Mark Moores, executive director, has been quoted as saying the state would be better served by supporting traditional dental education programs, by increasing Medicaid payments and by eliminating gross receipts taxes on dental services as ways to increase the numbers of dentists.²²

The NMDA has launched its Brighter Smiles for New Mexico campaign, which includes some of the provisions referred to above in the dental therapist debate. The campaign, according to the NMDA web site, is a public education campaign with an accompanying legislative package. One item includes legislation to ensure that every child visits a dentist before they can start school; a waiver is offered. Another provision establishes a patient's bill of rights with insurance companies by ensuring patient choice of dentists and standardizing coordination of benefits.²³ ¹

The NMDA, Delta Dental of New Mexico, Conoco Phillips, DentaQuest and the New Mexico Dental Foundation have brought free dental care to both children and adults with their Mission of Mercy dental clinics.²⁴ Mission of Mercy is a national organization that has been providing free dental care since 2000, with work donated by local dentists and other providers. The first one, held in Albuquerque in October 2010, provided free care to 2,200 residents. The second one took place in March 2012 in Las Cruces; 1,521 patients were treated. The third is scheduled for Farmington in September 2013.

Recommendations

Fluoride Varnish

As Marisol left my office after her checkup, relieved because she didn't need to have shots, I felt like I had failed her. Did I forget to remind her Mom to keep Coke out of her bottle? (I didn't forget). Did I remind her to brush her teeth twice a day? (Maybe I forgot. Or I was tired of lecturing that day). At least I was pro-active and had varnished her teeth.

Marisol is the perfect age to attend Pre-K and take advantage of the programs offered by the DOH—if they were located in Dona Ana County, where she lives, which they aren't. (Pre-K education is not universal in New Mexico.) Improving this age group's oral health can be done quickly and easily with a universal fluoride varnish program.

Currently, only dental providers and pediatricians apply fluoride varnish to children up to age three. The varnish program by pediatricians is just now taking off. Dental caries could decrease significantly if all providers who see small children, from eruption of first tooth to age 3 years, apply fluoride varnish in their offices. This includes family practice physicians and all those who see patients at IHS and FQHC clinics—not just dentists. These providers see them frequently for well child checkups. The infrastructure already exists. The DOH mentions varnishing all children up to age 18 in its future goals. All babies and young children should be varnished by all providers, not just those in DOH programs.

Dental Therapists

The State should be proactive and organize support for new legislation to establish the dental therapist program. It should not expect advocacy organizations to lead this effort. Dentists need not feel threatened by these mid-level providers. Physicians dealt with similar scope of practice issues years ago when nurse practitioners were given independent practicing authority. Now we work side-by-side with them in underserved areas, happy to have them able to provide care. There are enough patients for all of us.

Dental School

Policymakers should revive the effort to establish a School of Dental Medicine. New Mexicans should be educated in New Mexico, where they will stay and practice. Ensuring that there are dental training programs available is essential to address work force shortages.

Dental Care in the Medical Home

Oral health is an integral part of overall physical health. Physical health and behavioral health are blended in the next type of Medical Home—the Health Home—promoted in federal health care legislation. Oral health care—education, preventive efforts, treatment, case management, practice sustainability, performance measures—should be considered an essential part of physical health descriptions when government considers how to define the Health Home in New Mexico. The state is currently modernizing its Medicaid program into Centennial Care, which includes provisions for Health Homes, as yet not fully described. The opportunity is there to include oral health care as part of a more complete Health Home model.

Clean Teeth

Education efforts can be lost in the best of situations. We can talk to kids all day about the importance of twice-daily tooth brushing, but if it isn't supervised in the home, all that talk is for nothing. Many children eat both breakfast and lunch at school, especially in rural and impoverished areas. A strong effort should be launched by the Department of Health in these schools to provide each child with a toothbrush and toothpaste, along with education on proper brushing technique, so that at least twice a day their teeth will be clean.

Endnotes

1. "Census Population Count 2010. Intercensal Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2010." Population Estimates Program, U.S. Census Bureau. Available at <http://www.census.gov/popest/data/intercensal/state/state2010.html>.
2. Ibid.
3. Anne Foster, Medical Director, Medical Assistance Division, New Mexico Human Services Department. Personal communication, July 2012.
4. "HB 495—Adding Dental Therapists to NM Dental Team." Access to Dental Services: A Health Crisis for Rural and Tribal New Mexicans. Health Action New Mexico. Feb. 17, 2011. Available at <http://www.healthactionnm.org>
5. "The Cost of Delay: State Dental Policies Fail One in Five Children." The Pew Center on the States, The Pew Charitable Trusts, Washington, D.C., 2010. Available at <http://www.pewcenteronthestates.org>
6. "The State of Children's Dental Health: Making Coverage Matter." The Pew Center on the States, The Pew Charitable Trusts, Washington, D.C., May, 2011. Available at <http://www.pewcenteronthestates.org>
7. Racial and Ethnic Specific Oral Health Data. U.S. Department of Health and Human Services, Office of Minority Health. Available at <http://minorityhealth.hhs.gov>
8. "Policy Statement: Early Childhood Caries in Indigenous Communities." Pediatrics, Volume 127, Number 6, pp. 1190-1198. June 2011.
9. NM Human Services Department, Medical Assistance Division. Available at <http://www.hsd.state.nm.us/mad/HedisReports.html>
10. Ibid.
11. "2008-2101 Progress Report." State of New Mexico Comprehensive Strategic Health Plan, September, 2010.
12. Rudy Blea. Personal communication, July 2012.
13. "State of New Mexico 2008 Comprehensive Strategic Health Plan." New Mexico Department of Health.
14. Carol Hanson. Personal communication, July 2012.
15. Snyder, A. "Increasing Access to Dental Care in Medicaid: Targeted Programs for Four Populations. New Mexico's Response—The Special Needs Code." National Academy for State Policy, pp. 18-19. March, 2009.
16. Ibid.
17. Jerry Harrison. Personal communication, July, 2012.
18. Karen Carson. Personal communication, July, 2012.
19. Pahel, et al. "Effectiveness of Preventive Dental Treatments by Physicians for Young Medicaid Enrollees." Pediatrics. Volume 127, Number 3. March, 2011.
20. Bailit, H. "New Mexico Dental School Feasibility Study." Report to the New Mexico Department of Health/Public Health Division/Health Systems Bureau." August 25, 2010.
21. Health Action New Mexico Report. Feb. 17, 2011.
22. Report on televised segment, KRQE, Albuquerque, N.M. Available at http://www.krqe.com/dpp/news/on_assignment/dentists-dueling-over-therapist-law
23. Brighter Smiles New Mexico Campaign. New Mexico Dental Association. Available at <http://www.nmdental.org/brighter-smiles-for-nm>
24. Available at <http://www.nmdental.org/a-mission-that-brings-a-bright-smile>

1110 Vermont Ave. NW, Suite 900
Washington, D.C. 20005
Phone: (202) 657-0670 | Fax: (202) 657-0671
www.firstfocus.net



FIRST FOCUS

MAKING CHILDREN & FAMILIES THE PRIORITY