



“Meeting the Moment” in Child Welfare Remarks by David Kelly

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On August 10th, 2020, David Kelly of the U.S. Children's Bureau delivered remarks to conclude the first day of the Ensuring Justice in Child Welfare NCSC Virtual Summit. This is a transcription of the remarks completed by the Justice in Government Project.¹

“There are moments in history when society and its leaders are forced to see, think and act differently. Times when facts and conditions reveal outcomes that cannot be denied credibly. Moments when the blatancy of injustice and the need for change are ubiquitous. We are in such a moment in child welfare.

We have known the shortcomings and bleak outcomes of the system for decades. The inequity present in our system and disparity it produces are so familiar as to be expected.

Simply by being born Black, a child is almost twice as likely to enter foster care. Native children are nearly 3 times more likely to enter foster care than a white child.

We fall short of meeting the most basic benchmarks: safety, permanency, and well-being. Children and youth often linger in foster care as legal orphans, without permanency, after we've made the promise of finding them a home. A small city's worth of young people leave foster care every year essentially to life on their own without the supports and the connections to be healthy and successful.

We know that the overwhelming majority of children in foster care are from poor families and that 60 percent are in foster care due to neglect, not abuse. Yet, we continue to invest far more by orders of magnitude in separating families than strengthening them and helping them stay together.

This is not justice.

We have been calling for a fundamentally re-envisioned approach to keep children safe and families together, one that will promote equity, for over three years at the Children's Bureau. One that will invest at least as much in keeping families together as it does in taking them apart, one that offers help before children are at risk of separation.

The pandemic calls us to do more, to do it sooner, and to do it differently.

¹ Minor edits were made for clarity and reviewed by David Kelly.

The calls for racial equity have brought all of the issues we struggle with as a field into a clear and powerful light. It cannot be unseen. It amplifies the need for justice in child welfare. Leaders of public child welfare agencies and across the private, faith-based and philanthropic sectors agree that we must change our course. Insight gained through our shared vulnerability these past several months and the inequities that have become so pronounced call us to action.

We must have a shared urgency.

We cannot fool ourselves into thinking that speeches like these or value statements will get us to where we need to go. And we must not fool ourselves into thinking that we can train these issues away, or that a few new tools or services, if used correctly, will be sufficient to overcome systems that are fundamentally designed to disadvantage poor people and people of color, and implicit bias. Those are traps we've fallen into before.

Meeting the moment requires more. Meeting the moment requires us to commit to justice for families. It requires us to believe that families are worthy of justice—all families, not just families that look like our own. It requires us to recognize that everyone needs help sometimes and seeking help is a sign of strength, not something to be punished. It requires us to see strengths, resiliency and potential, not just deficiencies alone. It calls us to see ourselves in other people and them in us, and it necessitates that we listen and act on what families tell us they need and to learn [from families] what could or would have made a difference had it been available.

Meeting the moment requires clear and coordinated action. We have to channel that hurt, the angst, the energy so many of us are experiencing into tangible, concrete action for good. We can mobilize around it, we can coalesce around strengthening families, [and] we can coalesce around strengthening communities. We can prevent the [need] for families to ever make contact with the formal child protection system, and we can improve the experiences that children, youth and parents have when they do make contact. We can create a true child and family well-being system that is just, equitable and humane, one that enhances resiliency and is healing. We can commit to going deep on doing right by children and families. And whether you're motivated by faith, or justice, or economics or some combination thereof, it will yield returns.

We can start by using the knowledge that we have, which includes facts such as:

- Most families come into contact with child protection due to what we call neglect. Definitions of neglect vary widely across the country but are united in that, most often, those definitions are associated with conditions of poverty. This shapes who gets reported to hotlines and why.
- Reporting is disproportionate based on race and socioeconomic status.
- A significant percentage of calls to CPS hotlines are screened out.
- Family separation is the main tool our system pays for.
- Removal of a child causes trauma, even when necessary, and that trauma could last a lifetime.

We can organize around these facts and the lived expertise of young people and parents. We can use this knowledge to do everything that we can to keep families from ever needing to make contact with child protection, and we can do everything we can to ensure families and youth experience fairness, if and when it becomes necessary to become involved with our system. Courts can be powerful leaders in this effort, bringing folks together across systems and communities.

We can begin bringing justice to life if everybody commits to two things and asking a few questions:

First: We must disentangle poverty and neglect. There [are] some concrete action steps [that] every team listening and everyone else can be a part of bringing to light.

Take a clear-eyed look at the [neglect definitions](#) in your state. Identify what's in there that might disadvantage poor families and families of color. Work with your legislature to change it.

Critically examine your [mandatory reporting statutes](#). What's in them? What could lead to confusion? Address it and then look at the data to determine who the most likely reporters are—maybe it's schools for childcare providers—and help them understand what's at stake, what's appropriate and what other solutions might be available.

Create an alternative: a warm line, a helpline, a community response approach. You can [look to Nebraska](#) for an outstanding example of a community response approach.

Work with TANF or your office of family assistance to develop a process for responding to calls that come in, where poverty is the prevailing challenge. Create something more than a referral process to help take those challenges on.

Work with your housing authority, as they have in [Boulder, Colorado](#), to address homelessness so that families are never separated because they don't have a place to live.

Support neighborhood and community-based places and resources that families can go to for social connection, concrete supports and services when needed.

The second thing that we can all do is ensure that every parent and every child has high-quality legal representation at all stages of child welfare proceedings, so that their voices are heard, expertise amplified and their rights are protected.

Maximize Title IV-E federal funding to provide [multidisciplinary legal representation](#) to every child and every parent. This type of representation pairs well-trained attorneys with social workers, parent partners, paralegals and investigators so they can get to know the family and get to know the child [and parents]—the whole story, not just the case file—and ensure they understand the strengths, the weaknesses, the options, the resources and can help shape solutions.

Pursue agreements with legal services organizations to help address civil legal issues that increase the likelihood of family vulnerability. Issues such as housing instability, illegal eviction proceedings, access to benefits.

The Questions

[These are] questions that apply to all of us, no matter what your role—investigator, social worker, attorney, judge, policymaker—questions that should place us in a constant state of inquiry and mindfulness and position us to do better every day.

When a family comes to our attention, our first question should be:

Is this really a poverty issue?

If yes, we have to be serious about identifying who we can partner with to address it.

Second question:

Is there a danger present to the child?

If yes, we can proceed as some counties in Iowa are doing to drastically reduce removal. We can ask:

- What can we do to remove the danger and not the child?
- Can a family member or a friend temporarily move into the home to help manage the danger?
- Can the parent and the child go someplace together? Maybe the home of a family member, or friend, or a residential treatment center?
- And, finally, can the child be placed on their own with a known and trusted adult?

These are the questions being asked before traditional foster care is even considered and has helped [reduce](#) removals and placement dramatically.

The third question:

Are we mistaking surveillance for support, and if yes, what do we think the family will gain from being watched?

How helpful would that be to you?

The final question is:

Is this fair to the child and parents, and will they feel that it's fair?

We'll know the answer if we ask families at every step of the way, and fairness is more likely if we do. If we hold ourselves accountable to asking these questions at every step of our work and acting on the answers that we receive, we can move towards justice together.

During another period of unrest in our country's history, Dr. King told us, "The time is always right to do what is right." Our charge and our opportunity is to build on those words and to agree: The time is always right to do what is right for children and families.

It's up to us to meet this moment, and I know that we can."