

# Youth Law News



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## Happy Birthday! You're Homeless

by Phil Ladew and Michele Benedetto

*Here's a plastic bag, put your stuff in it and enjoy your newfound freedom.*

This is what thousands of foster youth hear every year. You are no longer a foster youth, and you no longer have a place to sleep. Of course, today is the very first time that you can:

- Enter into a legally binding contract;
- Apply for a job without a work permit and someone else's permission;
- Apply for a driver's license without someone else's permission;
- Apply for an apartment;
- Apply for credit;
- Vote; or
- Make any real decisions about your life.

That's a big day. But the problem remains: where are you going to sleep tonight?

Foster youth are no different than other youth—except

that they lack the familial support other youth might have. When foster youth have nowhere to live they can't just crash at their parents' house, or uncle's house, or grandma's house—that is why they were in foster care in the first place.

The chances that a foster youth will become homeless upon leaving foster care are overwhelming. Some studies indicate that between 27 and 50 percent experience homelessness.<sup>1</sup> In 1999, the Child Welfare League of America reported to Congress that up to 40 percent of those in federally funded homeless shelters were former foster youth.<sup>2</sup> But by far the most compelling evidence is a recent

1 See Independent Living Program Policy Unit, Child and Youth Permanency Branch, Calif., *Report on the Survey of the Housing Needs of Emancipated Foster/Probation Youth* (June 2002).

2 Hearing on Challenges Confronting Children Aging out of Foster Care: Hearing Before the House Comm. on Ways and Means Subcomm. on Human Resources (March 9, 1999) (statement of Robin Nixon, Director for Youth Services Child Welfare League of America), <http://waysandmeans.house.gov/legacy/humres/106cong/3-9-99/3-9nixo.htm>.

state survey of California counties.<sup>3</sup> There, counties reported that more than 65 percent of youth leaving foster care do so without a place to live. And despite efforts to increase transitional housing for this population, counties managed to house only 1,084 former foster youth—about one thirtieth of the eligible population.<sup>4</sup>

### Homelessness

Homelessness and foster care are inextricably linked. Foster care feeds into homelessness just as Phillips Exeter feeds into Harvard. There is one difference, however; preparing a youth for Harvard is less expensive and better public policy.<sup>5</sup> So why can't

3 See Independent Living Program Policy Unit, *supra* note 1.

4 Total eligible population is unknown, but is estimated here by taking an average of the point-in-time number of children in foster care from 1/2000 to 1/2001, age 16 plus; divided by two and then multiplied by five. Thus, the eligible age range of 16 to 20 is taken into account. The result is an estimated 28,728 former foster youth between the ages of 16 and 20.

5 Monthly tuition, room and board, and incidentals to attend Phillips Exeter Academy, per website, is \$2633. Monthly group home rate for a level eight group home is \$4102, which does not include education costs incurred by the state.

California pull it together? The problem is bigger and more heartbreaking than one might think. California's policy for foster children seems to be baby-sit them until we no longer have to legally care for them and then emancipate them into homelessness.

Some service providers might identify Greg (see following page) as one youth who slipped through the cracks. However, Greg's story is more the norm than the exception. The fact that foster youth emancipate into homelessness is a nationwide problem, and a California epidemic.

California has 100,000 foster youth—the most in the nation—and something must be done to stop foster youth from transitioning out of foster care and into a desperate life of homelessness and insecurity. This article examines the needs and issues confronting foster youth as they set out to find housing and live self-sufficient, productive lives. It also provides policy and spending recommendations in an effort to enable more foster youth to succeed.

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by Phil Ladew &  
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## Happy Birthday!

*For Greg, a foster youth in Southern California, turning 18 brought numerous challenges. Greg emancipated from foster care on his 18th birthday by unceremoniously walking out of his group home. He had intended to stay with friends until he could find a job, and ultimately make enough money to find an apartment.*

*But, after only two weeks his friends asked him to leave. With no education, training, or skills, and no family to fall back on, Greg found himself sleeping on the streets of downtown. Interacting with street gangs frightened him, and Greg looked back to the foster care system for help.*

*Greg soon discovered that while the county provides several transitional housing programs for emancipating youth, extensive waiting lists locked him out. He had hoped to enter a new program based on federal Section 8 vouchers that would reduce his rent by 60 percent. But, Greg did not have a job, and with no income or chance of gainful employment in the near future, Greg did not qualify. And, since he was 18, he could not go back to the group home. Greg had nowhere to go.*

### California Needs More Affordable Housing

A steady job does not always equate to housing. To be considered affordable, housing should cost no more than a third of one's income.<sup>6</sup> This means that a youth working full time at a minimum-wage job can afford a monthly rent of \$325 or less—far below fair market rent in California.<sup>7</sup> Among California low-income renters, more than 60 percent pay over half their income for housing, and 91 percent pay more than a third.<sup>8</sup>

Moreover, even if a youth were to have money, there may not be a place for her to rent. California doesn't have enough housing, let alone enough affordable housing. According to the last census, the state of California had a rental vacancy rate of 3.7 percent—among the lowest in the nation.<sup>9</sup> Emancipating youth need to live self-sufficiently and thus need housing that is affordable. However, a report by the Little Hoover Commission found that, "California has not built enough housing for more than a decade," and that this "shortage is greatest in the multifamily housing that could assist low-income families."<sup>10</sup> Without afford-

<sup>6</sup> See Little Hoover Commission, *Rebuilding The Dream: Solving California's Affordable Housing Crisis* (May 2002), <http://www.lhc.ca.gov/lhcdir/165/report165.pdf>.

<sup>7</sup> See *id.*

<sup>8</sup> Little Hoover Commission, *supra* note 6.

<sup>9</sup> United States Census Bureau, *2000 Census*. (2001), <http://www.census.gov>.

<sup>10</sup> Little Hoover Commission, *supra* note 6.

able housing, how can one expect foster youth to live independently?

### The True Dependency System

That is what foster care is—a dependency system. The government removes a child, assumes responsibility for her, and agrees to provide for her basic needs. Then, at age 18, whether those needs have been met or not, she is emancipated. California assumes that an 18-year-old foster youth is capable of becoming a productive, independent member of society. However, without proper services, rearing, or training, the system merely sets the youth up to fail.

Foster youth are not raised properly nor taught skills essential to living independently. For example, some youth emancipate from group home care. Group homes are actually not "homes" at all, they are more like mini orphanages, incorporated under state law, with an executive director and a rotating staff. Many group homes do not focus on transitional services, and fail to expose youth to the multitude of skills needed to live independently. Daily activities like cooking, cleaning, seeking employment, holding a job—the sort of things that instill confidence and ability in a young man or woman—are often not made available. One foster youth reported that he was not allowed to peel a potato unless under the strict supervision of a staff member.

Another example is learning

how to drive an automobile. Not all schools provide driver's education classes in accordance with state law.<sup>11</sup> Thus foster youth, who do not have someone to pay for private classes, may have no access to driver's education. Failing to provide an opportunity for foster youth to learn this important skill is a serious hindrance to self-sufficiency.

Other examples include the failings of public elementary and secondary education, the failure of most state universities and community colleges to provide outreach and technical assistance to foster youth, the ineffective recruitment and retention of quality foster parents, the ever-growing reliance on group home placement, the failures of group home monitoring, the failure of California to recruit and retain quality teachers and social workers, etc. The list is long, but identifiable.

Ultimately, many foster youth are hindered from learning the skills necessary for independent living. So where do we go from here? There are only two directions with any hope of success, and we must travel both roads simultaneously. We must teach foster youth more and begin teaching it to them sooner, and we must adapt policy and practice to provide more after-care services.

11 See Letter from Leslie Fausset, Chief Deputy Superintendent Policy and Programs, California Department of Education, to California High School District Superintendents (May, 2001), <http://www.cde.ca.gov/pr/driveredltr.pdf>. See also California Department of Education, "Frequently Asked Questions: Driver's Education," (June, 2003), <http://www.cde.ca.gov/pr/defaq.html>.

## Current Resources

### Independent Living Programs

Preparing a foster youth to enter the real world is not easy. The system should work to provide the basic necessities: housing, healthcare, employment, and education. Prudent advocates have begun to focus on all of these issues with an eye toward providing holistic services to this very vulnerable population. Most of the current efforts to address these issues lie with the Independent Living Programs (ILPs).

Each county in California either operates or contracts with an ILP. These programs are responsible for helping youth, age 16 to 21, transition from foster care to self-sufficiency. The ILP provides training and services to help transition youth out of care. However, ILPs have their limitations.

First, ILPs usually reach only a small percentage of the eligible children in their county. Many ILP workers are overworked and underpaid, and unable to contact youth as often as necessary. For example, in one metropolitan area, two caseworkers are assigned for every 100 youth. Given such caseloads, even the most dedicated ILP worker could not effectively follow up with each young person.<sup>12</sup> Second, ILPs often only provide classes that meet once a week for a few weeks, and then culminate in a large, expensive gradu-

12 Telephone interview with county ILP caseworker (April 29, 2003).

ation party. Third, there is no system in place to monitor ILP programs for quality and effectiveness. Last, many ILPs have long waiting lists, denying youth access and opportunity.<sup>13</sup> The result is a great variance in the services offered to youth throughout the state; some counties provide extensive wraparound services, while others fail to provide even the basics.<sup>14</sup>

Even so, ILPs are an excellent focal point for the accumulation of information, and an effective resource for youth after they have aged out of the system. What ILPs cannot do, however, is make up for the daily, weekly, and monthly learning that must go on in the home. This is especially problematic for children living in group homes or other placements that do not make independent living a priority. Thus, until policies and resources prepare youth for a life on their own, we must look at ways to help the youth the system has already failed.

### Transitional Housing and its Barriers

13 See State of California Office of the Ombudsperson for Foster Care, *Update Report, 2000-2001* (2002), <http://www.fosteryouthhelp.ca.gov/PDFs/2000-2001AnnualReport.pdf>.

14 Recently, Legislation (Assembly Bill 1979, Chapter 271 of Statutes 2002) was passed mandating the promulgation of emergency ILP regulations. These were intended to regulate ILPs, make them more uniform in the minimum services they provide, and make them more effective overall. However, the Department of Social Services never convened a formal working group and either didn't ask for input, and sort of ignored much of the input they received. The result was a weak and generally ineffective draft of regulations. Of course, these are only the emergency regulations, and there is still a public comment period slated to begin August 1, 2003. Advocates should therefore strive to make their views heard and their ideas incorporated.

One of the main goals of ILP programs is to ensure that youth who lack the opportunity to live independently have a place to live after leaving the system. To that end, transitional housing has become a focal point of services provided to foster youth. Transitional housing can take many forms—from "scattered site" apartments in the community, to temporary housing in "dedicated buildings" that are exclusively for youth housing.<sup>15</sup> Usually the placement involves other support, like case management services and/or job assistance, and thus becomes an invaluable aftercare tool.

As such, transitional housing is a great alternative to homelessness; however, the number of placements is limited. Only 57 percent of California counties offer housing programs, and the total number of beds is just over a thousand.<sup>16</sup> So even if all the current transitional housing in California were made available, we would still emancipate no less than one-in-four foster youth into homelessness each year. Further, waiting lists and tough acceptance criteria represent very real barriers to youth attempting to access the few available placements.

An additional barrier to youth entering a transitional housing program is the

15 For an excellent resource for best practice models of transitional living programs, see *Moving In: Ten Successful Independent/Transitional Living Programs*, (Mark J. Kroner, ed., Northwest Media 2001).

16 See Independent Living Program Policy Unit, *supra* note 1.

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youth's past. A probation history or mental health history can thwart success for years to come. This is a significant problem, as many of the neediest foster youth have probation and/or mental health histories. While reliable statistics are not available regarding the number of foster youth that enter the juvenile delinquency system,<sup>17</sup> at least one study, prepared by the National Institute of Justice, suggests that the rate of juvenile arrests for abused and neglected children are higher than their peers.<sup>18</sup> The study found that abused and neglected children were 59 percent more likely to be arrested as juveniles.

Similarly, mental health issues disproportionately plague foster youth. Mental health services were received by 62 percent of foster youth in 1997. Of those, 38 percent were treated for mood disorders, 24 percent for behavior disorders, five percent for psychoses, 23 percent for anxiety, 31 percent for adjustment disorders, and 21 percent for other reasons.<sup>19</sup> However, the meager mental health services that foster

17 Telephone interview with staff member at the California Attorney General's Office, Criminal Justice Statistics Center and the Office of Juvenile Justice and Delinquency Prevention.

18 Cathy S. Windom and Machael Maxfield, *An Update on the 'Cycle of Violence'*, U.S. Department of Justice, National Institute of Justice: Research in Brief (February 2001), <http://www.ncjrs.org/pdffiles1/nij/184894.pdf>. This study's usefulness, in the view of this author, is limited as the test group is from cases processed by the courts between 1967 and 1971, it is included now merely because it is the only information available.

19 See Barbara Needell, et. al., *Youth Emancipating from Foster Care in California: Findings Using Linked Administrative Data*, Center for Social Services Research, University of California at Berkeley (May 2002) p. 28, [http://cssr.berkeley.edu/childwelfare/pdfs/youth/ffy\\_entire.pdf](http://cssr.berkeley.edu/childwelfare/pdfs/youth/ffy_entire.pdf).

children receive are often at the root of the problem. Poor mental health care and incorrect diagnoses are not at all uncommon among foster youth.<sup>20</sup>

Another barrier to accessing transitional housing services is "creaming." Many advocates report that housing programs will try to take the cream of the foster youth crop so that they can present successful outcomes to their funders. This leaves most foster youth with no alternative but the streets. Thus, transitional living placements are great if you can get them. But for most foster youth leaving the system, there are no beds available, or they simply do not qualify.

### California's Policy of Homelessness

In 2000-2001, counties managed to find housing placements for only a small percentage of those eligible for assistance. Some 65 percent of foster youth who aged out without a place to live did so homeless.

Both the federal and state governments define homelessness in age-related terms.<sup>21</sup> This is important because most youth who emancipate from foster care must do so when they are still "youth" within those defini-

20 See DeQuendre Neeley-Bertrand, *Mental Health and Child Welfare: Waiting for Care*, Children's Voice, CWLA (May 2001), <http://www.cwla.org/articles/cv0105mentalhealth.htm>.

21 California defines children and youth under McKinney-Vento as twenty-one years of age and younger, as the latest guidance suggests. Telephone interview with Leanne Wheeler, in charge of Homeless Education, Title I Policy and Partnerships Office, California Department of Education.

tions. Generally foster youth must leave care when they turn 18 years old.<sup>22</sup> Some may continue until their 19th birthday, if it appears they will graduate high school within that time.<sup>23</sup> Conceivably, a youth can be in foster care until their 21st birthday, but courts retain such jurisdiction so rarely it is hardly worth mentioning.

### McKinney-Vento

The McKinney-Vento Homeless Assistance Act's definition of *homeless children and youth* (twenty-one years of age and younger) includes:

- *Children and youth who lack a fixed, regular, and adequate nighttime residence, and includes children and youth who are:*
  - *sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason (sometimes referred to as doubled-up);*
  - *living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;*
  - *living in emergency or transitional shelters;*
  - *abandoned in hospitals; or*
  - *awaiting foster care placement.*
- *Children and youth who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a*

22 See Cal. Welf. & Inst. Code § 11401 (West 2003).

23 See Cal. Welf. & Inst. Code § 11403 (West 2003).

regular sleeping accommodation for human beings.

- Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings.<sup>24</sup>

Further, federal guidance for the Department of Education suggests determinations of homelessness be made on a case-by-case basis. If a child or youth does not fit into the categories above, one should consider “the relative permanence of the living arrangements” as it relates to a “fixed, regular, and adequate nighttime residence.”<sup>25</sup>

Thus, in applying McKinney-Vento, foster youth who emancipate from the system are within the “twenty-one and younger” age range for this definition of homelessness. So all youth who emancipate from the California dependency system who “crash at a friend’s house,” or “couch hop,” are, *by definition*, homeless. Youth who go back to live at the abusive home they were taken from, and share that housing are, *by definition*, homeless.

Literally thousands of placements are needed to help youth transition from care into housing.<sup>26</sup> Without an increase in housing resourc-

es, or an improvement in the preparation of foster youth, there is little hope of rectifying the problem.

### Courtroom Advocacy

One way to attack the problem is to change policies in the courtroom. California law provides that the court can retain jurisdiction over a foster youth if it finds it is in the best interest of the youth, and the social worker has not provided assistance in securing housing.<sup>27</sup> If read literally, unfortunately, the court need only ensure that the social worker gave the youth some “assistance.” This could arguably be satisfied by informing the youth that the local newspaper includes a classified section. A proper reading, however, would ensure that the youth had actually secured housing—i.e., that the social worker gave effective assistance. Where courts are reluctant to retain jurisdiction, the dependency case may be dismissed even when the youth does not have a place to sleep that night.

The result: foster youth are emancipating into homelessness by the thousands. Current figures estimate that almost 3,000 foster youth needed housing at the time of emancipation in fiscal year 2000-2001.<sup>28</sup> These figures are only estimates, and may not account for many foster youth who do not have a home, or only appeared to have housing at the time of the survey.

*Anne turned 18 exactly one month after her high school graduation. When the court terminated its jurisdiction over Anne, her foster mother could no longer afford to keep her in the home. Anne left her foster mother’s home and moved in with her boyfriend. She hoped to live with him while she completed a 10-month vocational program at a local community college.*

*However, when her boyfriend became abusive, Anne was forced to move to a women’s shelter, was unable to continue with her education, and is now receiving welfare. Anne hopes that her homelessness is temporary. She is on waiting lists for two transitional living programs, but her lack of stable housing has interrupted her ability to achieve her goals.*

As Anne’s story demonstrates, homelessness can wreak havoc on every aspect of a youth’s life.

### Available Funding

For some time, policymakers did not have the political will to tackle homelessness. And while funding is still limited, recent federal and state collaborations bring new hope for successful blended funding efforts. After years of laying fallow, the White House reconvened the Interagency Council on Homelessness, a 20-department federal collaboration.<sup>29</sup> Also, in California, Governor Gray Davis convened the Governor’s Initiative on Homelessness. Both bring key players to the table at a

time when human services dollars are scarce. Advocates should leverage all sources of funding to provide youth with the services they need.

The Chafee Foster Care Independence Program allows states to spend up to 30 percent of their Chafee allotment on housing.<sup>30</sup> This means that in any given year, California could spend around \$15 million of Chafee money on housing—if housing were a priority. While \$15 million is not a windfall, it is enough to buy several large apartment complexes throughout the state. Of course, Chafee money does have other purposes, and advocating that \$15 million be spent each and every year on housing alone may not be the best tactic. But the fact remains that there are millions of dollars California could be spending on housing out of Chafee funds alone.

One problem, however, is that California is a county-based system. As such, the state parcels out Chafee funds and leaves it up to the counties to manage as they see fit. Counties may, according to California’s state plan, spend up to 30 percent of their Chafee allocation for housing, but there is no minimum amount required.<sup>31</sup>

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24 See United States Department of Education, *Education For Homeless Children And Youth Program Title VII-B Of The McKinney-Vento Homeless Assistance Act, As Amended By The No Child Left Behind Act Of 2001, Draft Non-Regulatory Guidance*, Washington, DC (March 2003), Appendix A, p. 27, <http://www.ed.gov/offices/OESE/SASA/homelessguidance.pdf>.

25 *Id.*

26 See Independent Living Program Policy Unit, *supra* note 1.

27 See Cal. Welf. & Inst. Code § 391. (West 2003)

28 See Independent Living Program Policy Unit, *supra* note 1.

29 For more information go online at: <http://www.ich.gov>.

30 Chafee allocations to states are determined by the proportion of children in Title IV-E funded and state funded foster care for the most recent year. The 2002 allotment was \$26,983,207 and 2003 estimates are \$26,242,256. With California’s state match, the total is around \$44.5 million for 2003, <http://www.nrcys.ou.edu/NRCYD/chafee.htm>.

31 California Department of Social Services, *California Chafee Foster Care Independence Program State Plan for Fiscal Years 2001-2004* (2000), [http://www.nrcys.ou.edu/PDFs/chafee%20plan/CA\\_Chaf\\_Plan.pdf](http://www.nrcys.ou.edu/PDFs/chafee%20plan/CA_Chaf_Plan.pdf).

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The Department of Housing and Urban Development (HUD) also has some funds available. For over a year, HUD, through the Family Unification Program, has made Section 8 vouchers available to foster youth who are transitioning from the system.<sup>32</sup> The number of vouchers is limited, however, and HUD leaves it up to the Department of Social Services to identify youth and determine if they are eligible. Counties reported that only 29 youth, out of the thousands eligible, used HUD vouchers in 2000-2001.<sup>33</sup>

Further, HUD may be able to provide funds for the construction and rehabilitation of dedicated housing for former foster youth. Some, however, have concerns that development of youth-only housing is a form of impermissible age discrimination that would prohibit the use of state and federal funding. Last year, with the federal Age Discrimination Act<sup>34</sup> in mind, the legislature passed AB 2972. According to this new law, California no longer considers youth-only housing age discrimination. Upon analyzing the federal law and its accompanying regulations, HUD would have a difficult time denying funding based on discrimination grounds. Regulations make clear that a program is not in violation if it, “reasonably takes into

32 See 66 Fed. Reg. 133 (July 11, 2001), [http://www.hudclips.org/sub\\_nonhud/cgi/pdf/17273a.pdf](http://www.hudclips.org/sub_nonhud/cgi/pdf/17273a.pdf).

33 See Independent Living Program Policy Unit, *supra* note 1.

34 See 42 U.S.C. §§ 6101-6107 (West 2003) (The Age Discrimination Act of 1975).

account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity.”<sup>35</sup> This seems to fit any program designed to address the unique needs of youth who find themselves homeless. Still, the burden of proving that the youth housing program does not violate federal law falls on the recipient of the funds—in this case, the state, one of its counties, or any private program savvy enough to receive federal funds. Discussions with regional HUD employees revealed that HUD has not issued guidance regarding youth-only housing and age discrimination. The main reason was that no one has applied for the funds, so no one has asked the question.

Transitional Living Programs (TLPs) are also partially funded with federal dollars.<sup>36</sup> Through the TLP, the Family and Youth Services Bureau supports local projects in their efforts to provide longer-term residential services to homeless youth ages 16-21. These programs provide services for up to 18 months and are designed to provide housing and services so that youths can make a successful transition to self-sufficient living.<sup>37</sup>

State and county level funds include the STEP program and its housing components THP+ and THPP. The Supportive Transitional Emancipation Program (STEP)

35 24 CFR 146.13(b) (West 2003).

36 See Missing, Exploited, and Runaway Children Protection Act of 1999, Pub. L. No. 106-71, <http://thomas.loc.gov/cgi-bin/query/C?c106:/temp/~c106Rare7x>.

allows for the continuation of foster care payments until the eligible youth reach age 21.<sup>38</sup> Youth who aged out of foster care or Kin-GAP would continue to receive the basic foster care rate, a little under \$600 a month, if they were enrolled in higher education or a vocational program. Several counties were primed to sign on to this county opt-in program, but the inability of states to use IV-E funds, the declining economy, as well as the entitlement structure of the program, have counties opting out.<sup>39</sup> To date, not one county has signed onto the program.

Transitional Housing Programs for emancipated foster youth (THP+) used to be an option for only those counties participating in STEP. However, seeing how unlikely counties were to opt in to the STEP program, the state legislature separated THP+ from the STEP program.<sup>40</sup> Now counties may opt in to the program at the same match (60 percent) as the STEP program and avoid the entitlement entanglement. The county would provide non-licensed, county-certified transitional housing and the state would provide 40 percent of the funding from the newly cre-

37 To learn more and see a listing of grantees by state go to: [http://www.nrcys.ou.edu/NRCYD/State\\_Pages\\_/f/state\\_ca.htm#TLP](http://www.nrcys.ou.edu/NRCYD/State_Pages_/f/state_ca.htm#TLP).

38 See A.B. 427, Chapter 125 of Statutes of 2001, codified at Cal. Welf. & Inst. Code § 11403.1 (West 2003).

39 See generally All County Letter 02-25 (March 6, 2002) (A county opt-in program has the state paying 40 percent and the county paying 60 percent of the cost), <http://www.dss.cahwnet.gov/getinfo/ac02/pdf/02-25.pdf>.

40 See A.B. 1119, Chapter 639 of Statutes of 2002.

ated Transitional Housing for Foster Youth Fund (hereafter, Fund).<sup>41</sup> THP+ providers would receive 70 percent of the average group home rate for 16-18 year olds. But again, a lack of participation has stopped this from being implemented. As of this writing, six counties have expressed interest in implementing the THP+ program; however, funding issues have bogged the process down. Counties are still finding it difficult to collect the 60 percent necessary to draw the state match. Other funding issues are a concern as well. To begin with, the Fund has but a limited supply of money to give. Further, other interests have begun to contemplate a raid of the so-far-unused Fund to help ease the current fiscal crisis.

Also, there is the Transitional Housing Placement Program (THPP) component of AB 427.<sup>42</sup> Many counties have shown a great deal of interest and plan to participate in the program. THPP providers will be licensed by Community Care Licensing and, similar to THP+, would receive up to 75 percent of the average group home rate for 16-18 year olds. For youths to be eligible for the program, she must be at least 16 years old, enrolled in ILP, and currently under the supervision of the county welfare or probation department (i.e., up to 19 years old as long as the youth is eligible

for foster care). The youth may have children who will live with them, and wards of the court and youth receiving psychotropic medication are not automatically excluded. Housing can take the form of youth living with a supervising adult, living alone with a supervising adult onsite, or living alone with non-resident, remote supervision. THPP is also a county opt-in program, and therefore counties must provide 60 percent of the funds. However, unlike STEP, THPP is not an entitlement program and services can be limited. Also, the state portion comes from the Transitional Housing for Foster Youth Fund, established under Welfare and Institutions Code § 11403.4, and when depleted, counties may roll-back to the June 2001 THPP base rate. This makes THPP much more attractive to counties.

Other sources of funds can come from private or foundational giving, non-profit organizations, and other state departments that serve youth. Advocates must work creatively to leverage all available funds.

### Current Efforts

Policies and practices are slowly changing the way California deals with foster youth and their quest for self-sufficiency. But in order to work effectively in a time such as this, when state budgets are at their tightest, advocates must think and act creatively.

One example of this is AB 490, a foster youth education bill

currently in the state legislature. Among other things, the new law focuses on schools collecting and transferring partial credits for youth moving from foster home to foster home. Included in this is the understanding that when a foster child is moving from one home to another, the impermanence in placement causes the child to be *per se* homeless. Thus, the local school districts can utilize McKinney-Vento funds and liaisons when checking the youth in and out of the school. This law, if passed, will better enable youth to get the education and diploma that will hopefully translate into a better job, stable housing, and thus self-sufficiency.

Unfortunately, effective collaborations, laws, and policies may not be enough. Lawmakers and advocates may work tirelessly to create laws to benefit foster youth, but the effort often falls flat when the law lacks effective implementation. In February of this year, the Little Hoover Commission published its second report on the ailing foster care system in California.<sup>43</sup> The report outlines one overarching fact—that despite all the well-intentioned policy, there is no accountable leadership structure in the child welfare system. The Commission points to one example where the Department of Health Services reported the statistics for medical screenings of foster children. The law makes it very clear: every foster child

must have a medical assessment within 30 days of entering care.<sup>44</sup> Yet, fully 89 percent of California's foster children do not receive an assessment during that critical first month.<sup>45</sup> If this simple and straightforward requirement cannot be implemented, what about more intangible requirements like teaching youth independent living skills?

Another example is the Higher Education Outreach and Assistance Act for Emancipated Foster Youth.<sup>46</sup> Passed almost seven years ago, this law mandated that California State Universities, Community Colleges, and the Student Aid Commission take steps to target and retain foster youth. The law further mandated that schools ensure that youth had access to housing during breaks, when most non-foster youth went home. In response to a letter of inquiry from the National Center for Youth Law, many indicated that “no funds” accompanied the law so they chose not to implement it. Some indicated that they had no responsibility to serve emancipated foster youth. Because the budget fails to include a line item for a particular law does not mean that schools can ignore that it exists.<sup>47</sup> Thus, a good law goes

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41 Cal. Welf. & Inst. Code § 11403.4 (West 2003).

42 See generally All County Letter 02-04 (Feb. 2, 2002), <http://www.dss.cahwnet.gov/getinfo/acl02/pdf/02-04.pdf>.

43 Little Hoover Commission, *Still In Our Hands: A Review of Efforts to Reform Foster Care in California* (Feb. 2003), <http://www.lhc.ca.gov/lhcdir/168/report168.pdf>.

44 Cal. Code Regs. Manual of Policies and Procedures § 31-405(n)(1) (West 2003).

45 Little Hoover Commission, *supra* note 42.

46 Cal. Educ. Code §§ 89340-89347 (West 2003).

47 Further, California State Universities, the welfare agencies, and the Student Aid Commission cannot claim that the state legislature imposed an unfunded mandate because they are branches of the state. Community Colleges cannot claim unfunded mandate either, as they have never submitted a request for funds.

by Phil Ladew &  
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## Happy Birthday!

unused.<sup>48</sup>

### Recommendations

The foster care system is failing our children. There is an obvious need for state-wide reform. And unless change occurs, thousands of California youth will continue to transition into poverty and homelessness year after year. To this end, California should strive to:

- Increase and improve the services and training foster youth receive before they leave foster care. Child rearing and independence training must occur in the daily life of a child. This is especially true for youth in group homes, or more restrictive placements. The best practice would be to educate youth and ensure that when they transition out of care, they go on to enroll in college, or are prepared to move into an apartment and find a job.
- Increase the amount of transitional and support-

<sup>48</sup> Cal State Fullerton's Guardian Scholars Program, Cal Poly Pomona's Renaissance Scholars Program, and Cal State San Marcos' recent collaboration to address the issue, are brilliant examples of institutions that did decide to provide outreach and assistance to emancipating foster youth. This highlights the neglect of other California institutions that do nothing.

ive housing placements for former foster youth. We should also seek to implement more diverse housing options for youth. Often the pull is to replicate a program that works, while little attention is given to the diverse needs of emancipating foster youth.

- Counties and private programs should strive to serve all youth, not just those that will make the outcome numbers seem impressive. This dovetails with the need for diverse housing options.
- Adapt courtroom policies that enable judges to retain jurisdiction until the youth has a place to sleep. To this end, court rules and/or an amendment to statute should be sought to clarify that California does not subscribe to the policy of emancipating youth into homelessness.
- Maximize available dollars, and increase funding to programs that prepare youth or provide aftercare. Thus, we should continue collaborative efforts and seek to blend funding in an effective manner.
- Counties should do everything possible to leverage the 40 percent of state money that opt-in programs, like THP+ offer.
- Create a pilot version of the STEP program that receives more non-county funds. Thus, counties can track youth and realize

their savings as youth use less county welfare services, Medi-Cal, and criminal justice resources.

- Research creative ways to build and/or purchase usable, short- and long-term housing for emancipating foster youth. Counties can pool resources, or look into the ramifications of re-allocating funds away from counties and directly applying the funds to capital-intensive housing projects.
- Increase affordable housing. California must devote time, energy, and resources to building more affordable housing. Further, these efforts should be directed to alleviate low-income homelessness.
- Develop a system of accountability and leadership in state and county agencies. Make outcome measures and service more important than babysitting a youth until they turn 18 years old.
- Develop methods to implement laws effectively. Bringing a lawsuit to challenge an injustice is a time consuming process. Laws should include enforcement mechanisms that enable the accountability mentioned above.

California must invest more time and effort into creating ways for youth to learn the skills that are essential to self-sufficient living. However, until such a time that this is

true, and every foster child leaves the foster system prepared, California lawmakers and advocates must provide aftercare services. These services are more than a safety net for those who fall through the cracks—they provide services that *should have* been provided years earlier. Foster care feeds into homelessness; if advocates hope to tackle the homeless problem, then we must deal with the foster care system's failures.

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