

Fall 2022

Poverty as a Barrier to Family Unification: A Look at the Relationship between Child Welfare Involvement and Access to Housing

Abby Dompke

Follow this and additional works at: <https://lawecommons.luc.edu/pilr>



Part of the [Civil Rights and Discrimination Commons](#), [Criminal Procedure Commons](#), [Environmental Law Commons](#), and the [Human Rights Law Commons](#)

Recommended Citation

Abby Dompke, *Poverty as a Barrier to Family Unification: A Look at the Relationship between Child Welfare Involvement and Access to Housing*, 28 Pub. Interest L. Rptr. 27 (2022).

Available at: <https://lawecommons.luc.edu/pilr/vol28/iss1/5>

This Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Public Interest Law Reporter by an authorized editor of LAW eCommons. For more information, please contact law-library@luc.edu.

Poverty as a Barrier to Family Unification: A Look at the Relationship between Child Welfare Involvement and Access to Housing

Abby Dompke

As of July 1, 2022, over 3,000 children in the city of Chicago were in foster care.¹ The Illinois Department of Children and Family Services (“DCFS”) can take a child into protective custody when investigators determine that a child is in imminent danger.² Subsequently, a judge may order DCFS to become a child’s guardian if the court determines that they need further protection resulting from neglect or abuse.³ However, it is against DCFS policy to separate a child from their family solely on the basis of poverty.⁴ This is due to the Norman Consent Decree that followed the case *Norman v. Suter*.⁵

In *Norman*, parents who were at risk of having their children taken into DCFS custody based on their inability to provide adequate food or shelter filed a class-action lawsuit.⁶ The parents asserted that DCFS had failed to provide resources for families who needed assistance to stay intact.⁷ The parties signed a consent order where DCFS had to implement policies to ensure that children were not separated from their parents based on living conditions unless there was an imminent danger to a child’s life or health.⁸ Thus, DCFS was required to make “reasonable efforts” to eliminate the need for removal.⁹

¹ *Youth in Care by County*, ILL. DEPT. OF CHILD. & FAM. SERV., <https://www2.illinois.gov/dcfs/aboutus/newsandreports/Documents/Youth%20in%20Care%20By%20County.pdf>.

² *What You Need to Know about a Child Abuse or Neglect Investigation*, ILL. DEPT. OF CHILD. & FAM. SERV., <https://www2.illinois.gov/dcfs/aboutus/Documents/whatcani.pdf>.

³ *Id.* at 9.

⁴ *Norman Services: Information on Housing Advocacy, Cash Assistance and Other Services*, ILL. DEPT. OF CHILD. & FAM. SERV., <https://www2.illinois.gov/dcfs/lovinghomes/families/Documents/NormanServices.pdf>.

⁵ Dee Davis-Tokarz, *Norman Consent Decree: Monitoring Children and Family Services*, ILL. ISSUES 14 (July 1992), <https://www.lib.niu.edu/1992/ii920714.html>.

⁶ *Norman v. McDonald*, 930 Supp. 1219, 1221 (N.D. ILL. 1996).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

Since the conclusion of *Norman*, these reasonable efforts have taken the form of “Norman Services.”¹⁰ These resources are for families who have children that are either at risk of being placed in DCFS care, or whose children are already in care and cannot yet return, due to a lack of appropriate housing, food, or other resources.¹¹ Families who qualify for Norman Services are supposed to be provided with a combination of housing advocacy, emergency cash assistance, and other assistance programs depending on their needs.¹²

Unfortunately, even with these Norman Services available, the number of children entering foster care in Illinois jumped 17 percent from September 2019 to September 2020, the largest increase in any state during the COVID-19 pandemic.¹³ Mandated reporting requirements and high-profile child abuse cases likely contributed to an increase in reporting, and thus, the increase in the investigation of child maltreatment cases.¹⁴ These investigations put families under the scrutiny of caseworkers who have witnessed public backlash when children involved with DCFS died due to abuse.¹⁵ Thus, caseworkers might be more inclined to take a child into custody based on issues of poverty, rather than genuine abuse or neglect to be “on the safe side.”¹⁶

Although taking a child into foster care can be a necessary life-saving measure for some, separation from their family is often a much more traumatic event for children than the issues they may be experiencing at home.¹⁷ Placing children into foster care as well as other out-of-home placements has been associated with poor behavioral, physical, and mental outcomes in both the short and long-term.¹⁸ Thus, taking a child into protective custody should be seen as only a last option when all other solutions have been attempted, or if there is a genuine, immediate threat to a child’s health and safety.

¹⁰ *Norman Services: Information on Housing Advocacy, Cash Assistance and Other Services*, ILL. DEPT. OF CHILD. & FAM. SERV., <https://www2.illinois.gov/dcf/lovinghomes/families/Documents/NormanServices.pdf>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Marny Rivera & Rita Sullivan, *Rethinking Child Welfare to Keep Families Safe and Together: Effective Housing-Based Supports to Reduce Child Trauma, Maltreatment Recidivism, and Re-Entry to Foster Care*, Vol. 94 No. 4, CHILD WELFARE 185, 188 (2015), <https://web.p.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=3&sid=136c12eb-8bd6-4945-8de8-ab7be418a393%40redis>.

¹⁸ *Id.*

Moreover, on a national scale, families who were experiencing some form of housing insecurity—whether that be difficulty paying rent, doubling up, or literal homelessness—were more likely to be investigated for child maltreatment.¹⁹ Housing problems can open families up to intense scrutiny from mandated reporters such as shelter staff, teachers, neighbors, and landlords.²⁰ Parenting behaviors that are problematic, but not necessarily harmful, are more visible or considered more notable than they would be in private household settings.²¹ As a result, there are more reports to child welfare agencies.²²

Additionally, 2019 data showed that housing problems were associated with 10 percent of the cases in which a child was removed from their family nationwide.²³ Once these families were separated, they had a lower chance of reunification compared to families who were not struggling with housing insecurity.²⁴ This is despite the fact that studies have shown housing problems are not significantly associated with the substantiation of child maltreatment.²⁵

Although inadequate housing on its own is not a ground for removing children unless the living situation is genuinely dangerous, it can coincide with other factors that a child welfare agency might deem severe enough to place a child into foster care.²⁶ The family stress model indicates that economic hardships, including housing instability, have less impact on a child than the manner in which the hardships are managed by the family.²⁷ Children suffer when economic stress results in declined parental mental health, conflicts in the household, and underdeveloped parenting skills.²⁸

Rather than punishing parents for being poor by forcing their children into the foster care system, families who are struggling with housing insecurity must receive help before their living situation becomes genuinely dangerous or leads to neglect. In addition to the Norman Services that DCFS is required to provide, there is a patchwork of programs at local and state levels that are

¹⁹ Rong Bai, Cyleste Collins, Robert Fischer, Victor Groza, Laihong Yang, *Exploring the Association Between Housing Insecurity and Child Welfare Involvement: A Systematic Review*, CHILD AND ADOLESCENT SOC. WORK J. 247, 257 (2020), <https://web.p.ebscohost.com/ehost/pdfviewer/pdfviewer?vid=3&sid=51ffdc49-92aa-4c81-af65-3bb51e2192f5%40redis>.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.* at 248.

²⁴ *Id.* at 257.

²⁵ *Id.*

²⁶ *Id.* at 248.

²⁷ *Id.* at 248–49.

²⁸ *Id.*

available to qualifying families if funding is available.²⁹ One of the most pertinent programs is the Family Unification Program (“FUP”).³⁰

FUP was created through the Affordable Housing Act of 1990 as one of the first federal programs that provided housing assistance to child welfare-involved families.³¹ Modeled after the Housing Choice Voucher program³², in which qualifying individuals and families are provided vouchers to assist with rent payments in the private housing market, FUP targets families who are in imminent danger of losing their children, or who are unable to regain custody, due to housing problems.³³ Additionally, the vouchers were intended to be awarded to young adults over the age of 18 who were in foster care and either currently homeless or at risk of being homeless.³⁴

Notably, FUP vouchers, while federally funded, are distributed locally.³⁵ When funding is made available, Public Housing Authorities must apply to receive these vouchers.³⁶ Since its inception, nearly 300 communities have received vouchers to assist families and youth in need.³⁷ As of July 2022, there were over 26,000 effective FUP vouchers awarded in the United States with over 750 being utilized by the Chicago Housing Authority (“CHA”).³⁸ This is in contrast to the 121,000 children separated from their families nationwide resulting from a lack of adequate housing in 2015³⁹ and Illinois’ increasing rate of children being taken into foster care.⁴⁰ For the families that are able to

²⁹ *Emergency Rental Assistance Program (ERAP)*, CITY OF CHICAGO DEPT. OF HOUSING, <https://www.chicago.gov/city/en/depts/doh/provdrs/renters/svcs/emergency-rental-assistance-program.html>.

³⁰ Rachel Blume, *Family Unification Program Vouchers at the Intersection of Housing and Child Welfare Service Delivery: A Chicago Case Study* 4 (2021).

³¹ *Id.* at 5.

³² Mary Cunningham, Michael Pergamit, Abigail Baum, Jessica Luna, *Helping Families Involved in the Child Welfare System Achieve Housing Stability: Implementation of the Family Unification Program in Eight Sites* (2015) <https://www.urban.org/sites/default/files/publication/41621/2000105-Helping-Families-Involved-in-the-Child-Welfare-System-Achieve-Housing-Stability.pdf>.

³³ Rachel Blume, *supra* note 30.

³⁴ *Id.*

³⁵ *Id.* at 4.

³⁶ *Id.* at 7.

³⁷ *Id.* at 5.

³⁸ *Housing Choice Voucher (HCV) Data Dashboard*, U.S. DEPT. OF HOUSING AND URBAN DEV., https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/dashboard.

³⁹ Rachel Blume, *supra* note 30, at 6.

⁴⁰ Kari Lydersen, *Illinois Foster Care Numbers Climb During Pandemic, Bucking National Trend*, THE IMPRINT YOUTH AND FAM. NEWS (Feb. 14, 2022), <https://imprintnews.org/foster-care/illinois-foster-care-numbers-buck-national-trend/62520>.

access FUP vouchers, the rental assistance programs have proven to be effective at reducing the number of out-of-home placements of children and reuniting families who have already been separated.⁴¹ In Chicago, this success is partly attributable to the additional services that are provided to families in need.

While FUP vouchers are working well for families who have them, there are certainly drawbacks to the program. In order to qualify for FUP, a family must already be involved with child welfare.⁴²

Families are first deemed eligible for FUP by their DCFS caseworker.⁴³ A family's caseworker then refers them to CHA, who screens the family for eligibility by verifying income information and conducting background checks.⁴⁴ As a result of the small amount of vouchers available, CHA is currently prioritizing families who are already separated and facing housing instability as their last remaining barrier to reunification.⁴⁵ In order for a family to be eligible, their caseworker must demonstrate that they are within 90 days of reunification.⁴⁶ Once CHA approves a family for a voucher, they are added to a waitlist until a voucher becomes available.⁴⁷ Parents must then work with a Housing Advocate, typically a caseworker at a nonprofit organization who works with DCFS and CHA to administer the FUP program.⁴⁸ Housing Advocates help parents find housing and work with them to secure other resources that might be beneficial to them.⁴⁹

Furthermore, within this process there are additional barriers to receiving help. Under federal law, FUP vouchers cannot be awarded to families with a parent who is a sex offender or who has been convicted of drug manufacture or sale.⁵⁰ Although FUP vouchers may be given to parents who have been convicted of other felonies, landlords may choose not to rent out their units to people with a criminal background.⁵¹ Some landlords also deny FUP families due to an insufficient credit score, regardless of the fact that a portion of the rent is guaranteed by the government.⁵²

⁴¹ Mary Cunningham, et al., *supra* note 32, at 8.

⁴² *Id.* at 33.

⁴³ Rachel Blume, *supra* note 30, at 10.

⁴⁴ Mary Cunningham, et al., *supra* note 32, at 99.

⁴⁵ *Id.* at 12.

⁴⁶ *Id.*

⁴⁷ *Id.* at 28.

⁴⁸ *Id.* at 19.

⁴⁹ Rachel Blume, *supra* note 30, at 10.

⁵⁰ Mary Cunningham, et al., *supra* note 32, at 16.

⁵¹ *Id.* at 17.

⁵² *Id.*

The scarcity of vouchers available means that the FUP program is not fully equipped to address the immediacy in which families may need funding to pay rent in hopes of avoiding losing their children. While there are other programs that provide emergency cash assistance for rent, such as the City of Chicago's Rental Assistance Program and the Illinois' Rental Payment Program, applications to these programs can close when there is no funding available.⁵³

Investing in FUP and other rental assistance programs is not only the right thing to do for families and especially for children, but it is also more fiscally sound than not making the investment at all. A 2004 analysis showed that by the federal government investing \$15 million in FUP to assist the families of 3,500 children, child welfare agencies can save \$74 million annually.⁵⁴ The long-term savings add up to \$94 billion in costs associated with the health repercussions, potential involvement with law enforcement and incarceration, special education, and lost productivity due to unemployment that can be associated with the foster care system.⁵⁵

However, FUP funding cannot be the entire solution due partly to the cumbersome process of applying for and receiving a limited number of vouchers. Once families are known to child welfare, caseworkers must be empowered to use funds flexible to address the immediate needs of families. Ruth White ("White"), the Executive Director of the National Center for Housing and Child Welfare, explained that child welfare agencies' claims that there are no funds available to provide meaningful assistance is not always accurate.⁵⁶ Instead, state dollars are allocated to fund additional staff and contractors, rather than provide direct assistance to families.⁵⁷ Moving forward, states can make a point to ensure that adequate funding is allocated for direct cash assistance.

Moreover, White described that caseworkers across America are trained to evaluate families using an ecological model.⁵⁸ However, there is a lack of standardization in how social workers are trained to address issues based on economic insecurity.⁵⁹ Describing the responsibility that social service agencies

⁵³ *Emergency Rental Assistance Program (ERAP)*, CITY OF CHICAGO DEPT. OF HOUSING, <https://www.chicago.gov/city/en/depts/doh/provdrs/renters/svcs/emergency-rental-assistance-program.html>.

⁵⁴ Mary Cunningham, et al., *supra* note 32, at 8.

⁵⁵ *Id.* at 16.

⁵⁶ Interview with Ruth White, Executive Director, National Center for Housing and Child Welfare, Nov. 11, 2022.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

must take to serve the families they are called on to investigate, White said, “If I go into your house, and I am an investigator and I am sitting in your living room, and I identify that . . . they have no food, the mom is actually a pretty nice person but . . . the roof is going to cave in, [the social service agencies] own that [problem] now. And they have to solve it.”⁶⁰ White articulated that the child welfare system chose to embrace an ecological systems theory that requires investigators to ask questions with varying degrees of true applicability to a parent’s ability to care for their child.⁶¹ Therefore, the agencies requiring this analysis should equip their social workers with resources to address ecological shortcomings.⁶² White said, “If they knew that was the case [that they would be responsible for addressing shortcomings], they would be less likely to go into that home based on economic issues,” leading less families to end up involved with child welfare and become at risk of losing their children.⁶³

On a broader scale, mandated reporters must be retrained and provided with information about economic supports that are available for families in need which do not require contact with child welfare.⁶⁴ Funding for local community action centers that provide these resources should be increased, and their services should be publicized in a way that reduces a parent’s reluctance to reach out for help over fear of losing their children.

Improving the livelihoods of children living in poverty cannot happen by relying on the child welfare system alone. Families should not continue to be separated and traumatized due to economic issues that could be resolved with resources as simple as rental assistance. Government officials at every level must begin to understand the difference between growing the institutions tasked with helping children and families, versus growing the pool of resources that families in need can access.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*