

Testimony before the District of Columbia Council  
Committee on Human Services  
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Child and Family Services Agency FY 2012 Budget Hearing

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Good morning, Chairman Graham and members of the Committee on Human Services. I am Judith Sandalow, the executive director of Children's Law Center (CLC),<sup>1</sup> the largest non-profit legal services organization in the District of Columbia and the only such organization devoted to a full spectrum of children's legal services. Every year, CLC represents more than 1,200 low-income children and families, including 500 children in foster care, dozens of children at risk of entering foster care, and several hundred foster parents and relatives of children in foster care.

This tough budget year is filled with bad news, so let me start with some very good news from the Child and Family Services' (CFSA) budget: the Mayor has wisely protected two essential prevention programs, Rapid Housing and the Grandparent Caregiver Program.<sup>2</sup> Children should never be separated from their parents because of housing, and Rapid Housing brings us closer to achieving that goal. Grandparents who raise their grandchildren deserve our support, and the Grandparent Caregiver Program provides that support. Both programs keep children safely with families and out of foster care. The protection of these programs is a step in the right direction to focus on preventing child abuse and neglect and preventing the unnecessary removal of children from their families.

There are, however, extremely troubling proposed cuts in CFSA's budget and in other agency budgets. In particular, we are deeply concerned that the proposed cuts to homeless services, TANF and other safety net programs will result in more children entering foster care. We can't quantify how many more children will enter foster care because of the proposed cuts. But, we do know that every year in DC, many children still enter foster care because of inadequate housing.<sup>3</sup> We also know there is also a link between reduction in

welfare benefits and an increase in child maltreatment as measured by contact with child protective services, substantiated cases of physical abuse and neglect and by numbers of children in foster care.<sup>4</sup> As we all know, coming into foster care has devastating consequences for a child and is expensive for taxpayers - an estimated \$50,000 in local District dollars per child per year.<sup>5</sup> For this reason, we urge this Committee and the Council to find ways to restore the proposed cuts to TANF and homeless services. If they are not restored, we believe that additional funds will need to be added to CFSA's budget.

There are cuts to CFSA's budget directly that will harm children. In particular, we are worried about the proposed cuts to children's mental health and prevention services as well as the lack of specified funds for differential response. We believe that these small proposed cuts can be avoided by making CFSA account for reasonably expected federal revenue and by making other cuts that will not directly affect the wellbeing of children.

#### **I. Restore the Cuts to Children's Mental Health and Prevention**

Even before cuts are made, the quality and accessibility of mental health services for foster children is not good. As I testified at CFSA's oversight hearing, CFSA links far too few children and families to evidence-based mental health care before CFSA removes children. Once CFSA does remove children, CFSA's own statistics show that many are not screened for mental health needs. And a severe shortage of effective mental health services remains the hallmark of the District's children's mental health system.

Without this Committee's intervention, the proposed budget will make that bad situation worse. The proposed budget would eliminate a \$2.5 million annual agreement with the Department of Mental Health (DMH) to develop specialized mental health services - that

is, mental health services that actually address foster children’s specific needs through evidenced-based treatment.<sup>6</sup> Foster children can only obtain essential services like trauma-informed cognitive behavioral therapy or functional family therapy because of past years’ investments through this MOU. At a recent budget briefing, CFSA staff could not explain what services would be lost due to this \$2.5 million cut,<sup>7</sup> and CFSA told this Committee that it “will have to contract these services using local dollars”<sup>8</sup> –but the source of these local dollars is not specified. We know from DMH that it planned to use the money for the evidence-based services, the Assessment Center, training for foster parents, and psychiatric residential treatment facility diversion programs. DMH’s planned investments in parent-child interaction therapy and child-parent psychotherapy for family violence – two badly needed services – are now in jeopardy.<sup>9</sup> Expansion of existing services – also badly needed – is now doubtful. The proposed cut of the CFSA funds to DMH come on top of other significant cuts to DMH’s children’s services compounding the problem.

Not only will the cut of this funding hurt children, but it may also jeopardize progress toward exiting *LaShawn*. We have been told by the Court Monitor that she has very serious concerns about the mental health cuts and that she believes they may derail the positive work, which is still a work in progress, to meet the mental health needs of children and families in the child welfare system, as required by the *LaShawn* decree.

The proposed budget would also cut an additional \$895,372 from CFSA’s Office of Clinical Practice, the office which contracts for the essential medical and mental health services that foster children need.<sup>10</sup> CFSA officials could not explain what services will be lost from this cut<sup>11</sup>, but it is hard to see how this cut will not further reduce already strained

services. In addition there is another \$121,000 cut to unspecified CFSA-funded prevention services hidden in this budget.<sup>12</sup>

These cuts will come at a cost: If children do not receive the mental health services they need, truancy and juvenile crime will go up. More children will move from one foster home to another and will end up in residential treatment or congregate care. And fewer children will be able to leave foster care to permanent families – at great long term costs to children’s development and at great immediate financial cost to CFSA.

## **II. Specify Existing Funds for Differential Response**

Specifying funds to allow the Families Together Amendment Act of 2010 (Families Together) to go into effect is also very important and requires only a technical fix. As we have testified multiple times, CFSA and the Council must fully and effectively implement the Families Together Act. This law allows the District to adopt a better practice model – differential response – for responding to the wide range of child protection hotline calls that CFSA receives.<sup>13</sup> Simply put, differential response lets CFSA triage child protection hotline calls, responding differently to low risk situations than to high risk ones. In the high risk situation, when a child faces an imminent risk of serious physical harm, a traditional investigation would be required. But for most situations, a child is at much less risk. Differential response allows CFSA to respond in a supportive, not investigative and punitive way, offering services more quickly and more effectively keeping children safe.<sup>14</sup> This change should also save the District money - the estimated \$50,000 in local District taxpayer dollars that it takes to keep one child in foster care for one year.<sup>15</sup>

CFSA cannot implement differential response unless the budget includes funding to do so. Families Together was passed subject to appropriations, meaning that it will only take effect “upon the inclusion of its fiscal effect in an approved budget and financial plan.”<sup>16</sup> Until the law takes effect, CFSA is legally barred from implementing differential response – because existing law requires CFSA to investigate each and every report of suspected child abuse and neglect.<sup>17</sup> The whole point of differential response – avoiding an adversarial investigation and providing preventative services immediately and cooperatively – cannot be accomplished until that legal change is put into effect.

We are confident that the fiscal effect of the Families Together Act, as determined by the CFO, can be painlessly included in the FY 2012 budget. A relatively small amount of money is necessary – \$550,000 in the first year, \$175,000 in the second year, and \$50,000 in the third year to train CFSA staff and update CFSA’s client database.<sup>18</sup> CFSA has publicly committed to the Council that it is beginning to implement differential response and is on track to do so by the beginning of the next fiscal year.<sup>19</sup> CFSA therefore must have found the training and IT resources within its existing budget, and no new allocations are required – they only need to be specified in the budget.<sup>20</sup>

We urge the Committee to specify in the formal budget documents that existing resources suffice to meet the Fiscal Impact Statement’s requirements, thus meeting the subject to appropriations language and triggering the law’s effectiveness. If the Committee does not take this step, CFSA will have no legal basis to implement this essential reform.

### III. Account For Reasonably Expected Federal Revenue

In order to avoid the proposed cuts to mental health services and prevention we urge the committee to require CFSA to account for expected federal revenue. Under a federal law that took effect October 1, 2010, CFSA is eligible to recoup millions of dollars in federal revenue for the costs of keeping 18, 19, and 20 year olds in foster care.<sup>21</sup> This change in federal funding availability is significant because 18-20 year olds represent one quarter of the District's total foster care population.<sup>22</sup> CFSA promptly moved to begin receiving these federal funds by submitting the appropriate state plan amendment.<sup>23</sup> The District already complies with all federal requirements to receive these funds, so this state plan amendment will surely be approved. And once it does, CFSA will be able to bill the federal government for costs incurred dating back to October 1, 2010.

Under an extremely conservative estimate, this revenue will amount to \$1.29 million.<sup>24</sup> A mid-level estimate of new federal revenue is \$3.68 million,<sup>25</sup> and a high end estimate is \$7.22 million.<sup>26</sup> That is, accounting for this revenue can erase the devastating cuts to children's mental health and even make a modest investment or two in new or expanded prevention programs.

Yet CFSA has confirmed that the proposed budget does not account for this revenue;<sup>27</sup> CFSA explains this omission by noting that the federal government has not yet approved its state plan amendment (SPA). CFSA's explanation does not justify its failure to account for this reasonably expected revenue. First, CFSA's resistance to accounting for this revenue is inconsistent with its own actions elsewhere in its proposed FY 2012 budget. CFSA *does*

account for revenue based on a *pending* SPA: its budget projects \$1.02 million in Medicaid revenue for its Nurse Care Management Services program.<sup>28</sup> But as CFSA itself said at its public budget briefing, and as the Department of Health Care Finance has said to the Council, the federal government has not yet approved the Medicaid SPA for that program.<sup>29</sup> CFSA is right to account for reasonably expected Nurse Care Management Medicaid money, and it is wrong not to account for reasonably expected 18-20 year old Title IV-E revenue. The Council must ensure consistency in CFSA's budget and make CFSA account for reasonably expected IV-E revenue just as it accounts for reasonably expected Medicaid revenue.

Second, the revenue based on this SPA is closely analogous to federal revenue based on a SPA for guardianship subsidies at issue last year – and that SPA did, in fact, yield significant revenue. CFSA was eligible for the guardianship federal revenue under the same federal statute and had submitted a SPA to obtain that revenue. During the FY11 budget discussion, we urged the Agency to account for reasonably expected revenue because SPA approval was extremely likely. The Agency resisted because the SPA was not yet approved, thus the revenue was not accounted for in CFSA's budget and was not available to offset painful cuts. Then, after the budget was finalized, our prediction came true. CFSA received federal approval for its SPA in August 2010. And, just as we predicted, CFSA now admits that it is receiving \$1.6 million a year in guardianship revenue.<sup>30</sup> There is no reason to think that the federal funding for 18-20 year olds in foster care will be any different.

#### **IV. Alternative Cuts**

Over the last three years as budgets have been cut, we have come to the Council proposing alternative cuts that we believe would be less harmful to children. Most of our



suggestions have been adopted, even ones which are not harm free, such as cutting CFSA's mentoring and tutoring budgets. Unfortunately, that means we are left with only a few ideas, and they require cutting staff.

As we have suggested before, we believe CFSA can save about \$500,000 from eliminating Structured Progress Reviews.<sup>31</sup> Every six months, in most cases, CFSA social workers discuss a case with a "reviewer" who has neither the knowledge of a case nor authority to affect it. These reviews duplicate discussions that occur at Family Court hearings, which also occur at least every six months.<sup>32</sup> And, unlike "reviewers," a judge has the authority to remedy any problems that come to light. The Council should eliminate these reviews and enact legislation removing the statutory provision creating them.<sup>33</sup> In addition, while these reviews were required by *LaShawn*, they are no longer and there is process to modify the plan to allow all Structured Progress Reviews to be ended.<sup>34</sup>

Second, we believe that there may be manager positions that can be eliminated without harming services to children. There are multiple deputy level positions and layers of supervision at CFSA.<sup>35</sup> We believe the committee should explore eliminating or merging some of these positions in order to fund needed services

## **Conclusion**

We urge this Committee to reject the proposed mental health and prevention services cuts and specify funds for differential response by making CFSA account for reasonably expected federal revenue and making other cuts that will not directly affect the wellbeing of children.

Thank you again for the opportunity to testify today. I look forward to your questions.

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<sup>1</sup> Children’s Law Center works to give every child in the District of Columbia a safe home, meaningful education and healthy life. As the largest nonprofit legal services provider in the District, our 75-person staff partners with hundreds of pro bono attorneys to serve 1,200 at-risk children each year. Applying the knowledge gained from this direct representation, we advocate for changes in the city’s laws, policies and programs. For more information, visit [www.childrenslawcenter.org](http://www.childrenslawcenter.org).

<sup>2</sup> CFSA Proposed FY 2012 Budget at E-26.

<sup>3</sup> Government of the District of Columbia, Child and Family Services Agency, Implementing the Adoption and Safe Families Amendment Act of 2000 in the District of Columbia (2009 Annual Report), 31.

<sup>4</sup>The largest and most comprehensive study, which reviews data from all states from 1990-1998: Christina Paxson & Jane Waldfogel, *Welfare Reforms, Family Resources, and Child Maltreatment*, Journal of Policy Analysis and Management, Vol. 22, No. 1 (2003). Two other studies (of Michigan and Illinois) found a link between family sanctions and increased contact with child protective services or the increased odds of having a child maltreatment allegation. Although one study (Milwaukee) found no link between family sanctions and child welfare involvement. West Coast Poverty Center, *Review of Research on TANF Sanctions, Report to Washington State WorkFirst SubCabinet*, 37 (2006).

<sup>5</sup> The proposed FY 2012 budget includes the following local dollar expenditures in CFSA’s budget, all of which are devoted entirely to children in foster care: Teen Services (\$2,031,000), Out of Home and Permanency (\$2,752,000), Child Placement (\$81,898,000), and Nurse Care Management Service (\$1,171,000). CFSA Proposed FY 2012 Budget Schedule 30-PBB at E-13 & E-14. The proposed budget also includes \$2,733,000 in local dollars spent on foster children’s out-of-District general education tuition, Proposed OSSE FY 2012 Budget at D-38, line D201; and \$3,441,000 in legal costs to the Office of the Attorney General. Proposed OAG FY 2012 Budget at A194, line 8101. Those costs add up to \$94,026,000. In addition, CFSA spends the following sums of local dollars: \$756,000 for Family Resources, \$2,387,000 for Family Licensing, \$2,619,000 for Contract Monitoring, \$5,699,000 for In Home and Permanency I, \$4,514,000 for In Home and Permanency II, and \$11,257,000 for the Office of Clinical Practice. CFSA Proposed FY 2012 Budget Schedule 30-PBB at E-13 and E-14. All of these divisions devote a substantial amount – probably a large majority – of their spending to serving children in foster care. Conservatively accounting for only half of these costs brings the total amount of local dollars spent on foster care to \$107,642,000. There are 2092 children in foster care. CFSA FY 2010 Annual Report at 21. These figures average out to \$51,454.11 in local dollars per foster child per year. That figure *excludes* other costs, including the cost of special education tuition in out-of-District public schools, and management, policy, legal and overhead costs incurred by CFSA.

<sup>6</sup> CFSA Proposed FY 2012 Budget at E-26-27.

<sup>7</sup> CFSA Budget Briefing 11 April 2011.

<sup>8</sup> CFSA FY 2012 Budget Questions Round 2, Q3. Q. 3 *The proposed FY 2012 budget includes the elimination of the MOU with Department of Mental Health for children’s mental health services. When is the termination date of the MOU? What services are being offered through this MOU? How many youth are being served through this MOU? How will youth receive mental health services, equivalent to those offered through this MOU, once it is eliminated?*

The MOU between CFSA and DMH ends September 30, 2011. This MOU serves all children in CFSA custody in need of the following traditional and non-traditional support mental health services:

Mental health screening tool for use upon entry into foster care;

Mental health diagnostic assessment to determine specific service needs; and

Enhancement to the Choice Providers capacity to deliver and sustain:

the evidence based-practice (EBP) Trauma Focus Cognitive Behavioral Therapy (TF-CBT);

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the EBP Child Parent Psychotherapy for Family Violence (CPP-FV);  
the EBP Parent Child Interactive Therapy (PCIT);  
individual Behavioral Coaching services (One on One);  
the EBP Functional Family Therapy (FFT);  
Sex Abuse and Sex Offender Therapy; and  
Flex Funds for recreational services with a therapeutic benefit i.e.,  
Art, drama, piano, and dance therapies; and  
Therapeutic summer camps.

In the absence of this MOU, CFSA will have to use existing funds on a current contract using local dollars for youth to continue receiving individual behavioral coaching services. For the remaining services, CPP-FV, PCIT, Sex Abuse and Sex Offender therapies, CFSA will have to contract these services using local dollars. The Department of Mental Health (DMH) is encouraging each of the Choice Providers to consider becoming a certified free standing clinic, which allows Medicaid reimbursement for EBP services for fee-for-service clients (children in foster care). To date per DMH, the Choice Providers are embracing this concept and are responding positively to a training workshop to learn more about this model.

<sup>9</sup> DMH provided this information to CLC in a budget brief and follow up conversations on the budget.

<sup>10</sup> CFSA Proposed FY 2012 Budget at E-26.

<sup>11</sup> CFSA Budget Briefing 11 April 2011.

<sup>12</sup> CFSA reports to the Committee that an “other services” cut includes “a reduction to prevention grants (\$121K).” CFSA FY 2012 Budget Questions Round 2 Q5.

<sup>13</sup> D.C. Law 18-228, <http://www.dccouncil.us/images/00001/20100624152836.pdf>.

<sup>14</sup> U.S. Department of Health and Human Services, Administration for Children, Youth and Families, Children’s Bureau, *Online Survey of State Differential Response Policies and Practices Findings Report*, at 6, 30-35 (2009), <http://www.differentialresponseqic.org/assets/docs/qic-dr-findings-report-jun09.pdf>

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<sup>16</sup> Families Together Amendment Act of 2010, D.C. Law 18-228, § 3.

<sup>17</sup> D.C. Code § 4-1301.04(a).

<sup>18</sup> Families Together Amendment Act of 2010, Fiscal Impact Statement, [http://app.cfo.dc.gov/services/fiscal\\_impact/pdf/spring09/B18-667 .pdf](http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/B18-667.pdf).

<sup>19</sup> See CFSA FY 2011 Oversight Questions (Round 2), Q7.

<sup>20</sup> In order to best serve children diverted from foster care, CFSA will need to direct funds to in-home services. We encourage the Council to approve redirection of those funds from the foster care budget as necessary during FY12.

<sup>21</sup> Pub. L. 110-351, § 201 (2008).

<sup>22</sup> CFSA’s annual report states that 514 youth, out of a total population of 2092 foster children and youth, are 18 years old and up. CFSA 2010 Annual Report at 21 (2010).

<sup>23</sup> CFSA 2011 Oversight Questions (Round 1), Q21(c).

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<sup>24</sup> The low-level estimate assumes an average cost per 18-20 year old of \$12,288 – based on the lowest foster care board rate paid for this age group – and multiplies that figure by 500 youth 18-20 years old, a 70% reimbursement rate, and a conservatively-estimated 30% IV-E penetration rate. This penetration rate estimate is based on CFSA’s report that 42% of 18-20 year old foster children are IV-E eligible, not discounting for those who do not meet the specific Fostering Connections criteria for this age group. CFSA Performance Oversight Questions, Round 1, Q21(i).

<sup>25</sup> The mid-level estimate assumes an average cost per 18-20 year old youth of \$30,000 (because some such youth are placed in foster homes and some in more expensive congregate care settings) and multiplies that cost by 500 youth 18-20 years old, a 70% reimbursement rate and a 35% IV-E penetration rate.

<sup>26</sup> The high-end estimate assumes the average cost of child placement activity is \$49,123 (the total FY 2011 line item of \$103,160,000 divided by the 2100 children in foster care), and multiplies that figure by 500 youth 18-20 years old, a 70% reimbursement rate and a 42% IV-E penetration rate. It is not clear that all of the \$49,123 in the average per-child place activity costs is federally reimbursable, but CFSA’s budget does not make it possible to determine for sure what portion of these average costs is federally reimbursable.

<sup>27</sup> CFSA FY 2012 Budget Briefing, 11 April 2011.

<sup>28</sup> CFSA Proposed FY 2012 Budget, Schedule 30-PBB at E-14. The money is listed as an intra-District transfer because federal Medicaid funds are routed through the Department of Health Care Finance.

<sup>29</sup> CFSA Budget Briefing, 11 April 2011; Department of Health Care Finance FY10 Oversight Questions, Q32, Submitted to the D.C. Council Committee on Health (describing the Nurse Care Manager SPA as “under final review” by the federal government).

<sup>30</sup> CFSA reported \$400,000 in revenue in the first quarter of FY 2011, on pace for \$1.6 million in annual revenue, the amount projected for FY 2012. CFSA 2011 Oversight Questions (Round 1), Q22 & Q23.

<sup>31</sup> Formerly called “administrative reviews.”

<sup>32</sup> D.C. Code § 16-2323(a). CFSA now calls these reviews “Structured Progress Reviews.”

<sup>33</sup> The Council should repeal D.C. Code §§ 4-1301.09(d)(2) & 4-1301.09(e).

<sup>34</sup> It is our understanding from the Implementation and Exit Plan (IEP) and the Court Monitor that “administrative reviews” are no longer required by the Court Order. The IEP does require that the agency have reviews of children who experience placement disruptions and special reviews of children in a group of corrective action categories (this is several hundred children total). CFSA’s plan says they would do these reviews through SPRs and other kinds of reviews (LYFE conferences, permanency reviews). If the positions for the structured progress reviews are eliminated, CFSA will have to modify their court approved plan—which they can with consultation with Court Monitor. The Court Monitor has indicated that if they have a sensible alternative that accomplishes the goals it would be approved.

<sup>35</sup> CFSA Organization Chart, 5 Feb. 2011 from answers to Oversight Q1.