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Culturally Responsive Child Welfare Practices: Hispanic Children in Foster Care

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Executive Summary

- Hispanic children are overrepresented in foster care across over a dozen states.
- The timeline required by the Adoption and Safe Families Act (ASFA) of 1997 is uninformed of the barriers faced by Hispanic parents striving to reunify with their children.
- Child welfare systems must develop and integrate policies to screen families' legal status and curate memorandums of understanding (MOUs) with key community and government stakeholders to increase the likelihood of reunification.
- Language access must be addressed by recruiting a diverse workforce reflective of the communities served and by developing language access plans.

Background

The number of children in foster care as of September 30, 2019 was recorded at 423,997.¹ Of the children in care on this date, over half were non-white children of color with 21 percent (87,625) representing Hispanic children.²

Hispanic children are historically underrepresented in foster care nationally yet were overrepresented in foster care across at least seven states as of 2015 with the top states being Maine, Connecticut, and Massachusetts.³ This data does not account for disproportionality within states, local jurisdictions, or counties; limitations also exist based on how race is determined across states (e.g. children who are identified as multiracial may not be represented in the given categories).⁴ Recent data recorded by the National Center for Juvenile Justice indicate Hispanic children continue to be overrepresented in as many as 19 states despite being underrepresented nationally.⁵ The overrepresentation of Hispanic children in foster care echoes the glaring statistics showing the higher proportions of African American and Native American children in the child welfare system when compared to White children across the country.⁶

The Child Abuse Prevention and Treatment Act (CAPTA), passed in 1974, funds child welfare agencies and nonprofit organizations responding to child abuse and neglect.⁷ The "child welfare system" is a term used to describe

the government processes of intervention and the process by which a child is removed from their primary caregiver(s) due to abuse or neglect. When abuse or neglect is suspected, a mandated reporter, professional, or community member makes a report to a county child welfare agency, typically called Child Protective Services (CPS), and CPS investigates the allegations of abuse or neglect to determine the level of risk for the child(ren) involved.⁸ If the investigation finds the risk of imminent harm to be low, the family involved may be assessed by a social services professional and referred to community based support services (e.g. counseling, parenting classes, food banks) on a voluntary basis to reduce the likelihood the family will be referred to CPS again.⁹ For cases where the risk is "unfounded" or "unsubstantiated," the CPS social service professional has determined the evidence does not merit state intervention and the case is closed.¹⁰ For those cases where the level of risk is "substantiated" based upon the evidence of a pervasive risk of harm (e.g. physical abuse, sexual abuse, neglect), CPS may remove the child(ren) from the home via court order.¹¹ The

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child is then placed in out-of-home care which may be with a family member, called “kinship” care, or with a home placement in foster care.

The Adoption and Safe Families Act (ASFA) of 1997 was signed into law to emphasize permanency planning for children and incentivize adoption.¹² ASFA codified the timeline child welfare agencies use for permanency planning, requiring the termination of parental rights to take place when a child is in foster care for 15 of the most recent 22 months.¹³ This timeline has been critiqued by advocates for child welfare reform and called the “crime bill” of child welfare legislation due to the way it has been characterized as punishing parents belonging to marginalized communities with additional barriers to family reunification.¹⁴ This legislation was enacted in response to children remaining in foster care without reunification or permanency for years.¹⁵

The Family First Prevention Services Act (FFPSA), signed into law in 2018, signaled a shift in the child welfare paradigm from intervention to prevention.¹⁶ FFPSA provides funding to states to implement time-limited services for mental health, substance use, and in-home support services for families with children at risk of entering foster care.¹⁷ This funding prioritizes family reunification and attempts to meet the family with supportive services to prevent the need for foster care. States are required to produce a five-year prevention plan to shift their respective child welfare systems toward prevention services.¹⁸ Alt-

hough prevention of foster care is the goal, children can still fall subject to the timeline implemented by ASFA when removal from the home is necessary for the safety of the child(ren).

Problem Analysis

Child welfare intervention and the process of removing children from their family of origin presents many opportunities for children to be traumatized.¹⁹ Separation from primary attachment figures can cause adverse physiological changes for children such as negative impacts to their immune response, their sleep patterns, and their ability to handle stressful situations.²⁰ Depending on the age of the children upon removal, they may even experience delay or regression in their development.²¹ Disruptions in children’s placements, moving from home to home, are opportunities for children to experience trauma and barriers to forming secure, adaptive attachments with adult caregivers; this can impact children beyond childhood and throughout their lifespan.²²

Historically cases of child maltreatment involving Hispanic families are more likely to be assessed and referred into the child welfare system at faster rates, with less attention to the assessment process, than White non-Hispanic families.²³ Additionally, research indicates the following variables predict rates of substantiation, or the finding that abuse merits state intervention, for both Hispanic and non-Hispanic children: (1) age(s) of the child(ren) upon referral, (2) economic status, (3) family struc-

ture, and (4) the type of abuse or neglect.²⁴ Therefore, families with younger children were more likely to be substantiated than families with older children, families receiving public benefits were more likely to be substantiated than families who were not receiving public benefits, single-parent households were more likely to be processed more quickly than two-parent households, and this trend remains no matter the allegation type.²⁵

More recent research shows Hispanic and non-Hispanic White families are referred to child welfare systems at similar rates.²⁶ However, differences continue to arise across substantiation rates, placements in out-of-home care, and services accessed when comparing Hispanic and non-Hispanic families; Hispanic families continue to be more likely to be substantiated for abuse and neglect, more likely to spend more time in out-of-home placements, and less likely to access and receive mental health services than non-Hispanic families.²⁷

Although Hispanic families are more likely to have higher substantiation rates, it is worth noting that they continue to be underrepresented across the United States’ foster care system holistically.²⁸ One potential explanation for this is that Hispanic families are more likely to be referred for kinship care, a term used when a child is placed with a relative, than non-Hispanic families.²⁹ When children are placed in kinship care, their chances of maintaining familial ties are increased and they statistically have less out-of-home

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placements than if placed in traditional foster care; though this may serve as a protective factor for general familial ties, research shows kinship placements ultimately receive fewer services from child welfare and there is a decreased likelihood of family reunification with primary caregiver(s).³⁰

Barriers to family reunification compound when looking at Hispanic families' legal status, and immigrant families are more likely to have fewer family members to serve as kinship placements due to them being the first generation in the United States.³¹ One in four children in the U.S. has an immigrant parent, and five million children live in mixed-status families where at least one parent does not have legal status.³² This increases the amount of systems involved in a mixed-status Hispanic family's case, which may include Immigration and Customs Enforcement (ICE) in addition to the local child welfare system.³³ Similarly, if a parent is involved with the criminal justice system, their average prison sentence may span for more than one year which makes the ASFA timeline that much less attainable.³⁴

Language barriers continue to contribute to lack of access to thorough assessment and referrals to community-based supportive services for Hispanic families.³⁵ Child welfare professionals interacting with monolingual, Spanish-speaking families may utilize children or neighbors to interpret during assessment processes which may increase families' distrust of service providers.³⁶ When

Hispanic families are referred for mental health services, parenting services, or other services, supports may be ineffective if they are not offered in families' primary language of Spanish; additionally, families may be placed on long waitlists to meet with providers in their primary language which extends the time needed to comply with their case plans.³⁷

Conclusion

Taking a system level approach, child welfare agencies can benefit from analyzing institutional factors that may contribute to disproportionate substantiation rates like agency culture, the effects of institutional racism, the availability of resources, and their level of engagement with the communities they serve.³⁸ Child welfare agencies must establish partnerships with culturally specific community organizations offering social services in families' primary language and make space for meetings with key stakeholders in the community to evaluate community responses to child abuse and neglect.³⁹ The recruitment and retention of a diverse workforce reflecting the communities a child welfare system serves may increase the likelihood of culturally specific services, including recruitment of a bilingual or multilingual workforce.⁴⁰

Families with immigrant members without legal status and with language barriers continue to interact with multiple systems that make child welfare cases more complex and less likely to comply with the ASFA timeline. Child welfare agencies must

establish language access protocols when bilingual caseworkers are unavailable, identify specialized points of contact within the community familiar with the complexities of immigration issues, train caseworkers on best practices in assessing for immigration issues, and review formal policies that may serve as barriers to family reunification.⁴¹ Similar to linking families to culturally specific community-based services, child welfare agencies must develop and integrate protocol for families interacting with outside government agencies and curate memorandums of understanding (MOUs) with law enforcement entities like ICE and foreign consulates to increase the likelihood of family reunification.⁴² Implementing community and government partnerships increases child welfare agencies' ability to respond to complex cases in a culturally responsive way.

Endnotes

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