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SYMPOSIUM: Legal and Community Services Advocates Working Together To Preserve Families, Columbia University School of Law, December 1-2, 1994

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**SYMPOSIUM: LEGAL AND COMMUNITY
SERVICES ADVOCATES WORKING TOGETHER
TO PRESERVE FAMILIES,
COLUMBIA UNIVERSITY SCHOOL OF LAW,
DECEMBER 1-2, 1994**

INTRODUCTION¹

The *Journal of Law and Policy* is publishing a partial transcript of a conference held at Columbia University School of Law on December 1-2, 1994, entitled, *Legal and Community Services Advocates Working Together to Preserve Families*. The conference was co-sponsored by Legal Services for New York City ("LSNY") and Columbia University School of Law.

The Support Unit of LSNY, led by Project Director Wilhelm Joseph, brought together legal advocates, social workers, academics, policymakers and families to exchange ideas and experiences and to explore multiple, interdisciplinary approaches to family preservation. The idea for the conference originated from the Family Law Task Force, headed by Marlene Halpern, which hoped that the conference would provide a forum for child welfare professionals, including legal and social services providers, to have a dialogue on how the two disciplines could work together more effectively to achieve the preservation of families. LSNY also hoped to develop a working group from the conference to continue the dialogue and to advocate for the funding of comprehensive family preservation programs which have a legal services component.

¹ This Introduction was written by Marlene Halpern, Family Law coordinator, Legal Services for New York City and Wilhelm H. Joseph, director of Legal Support Unit, Legal Services for New York City. Legal Services for New York City wishes to thank IOLA Fellow Karen Simmons for her efforts as conference administrator.

The conference was planned by a broad cross-section of professionals, representing both the legal and social services fields. Jane Spinak², then clinical professor of law at Columbia University, chaired the program committee that designed the conference format. The format included plenaries on how community-based organizations and legal advocates collaborate to preserve the family and how the media portrays family preservation. Additionally, the conference included workshops focused on understanding the different roles of attorneys and social workers when they collaborate, issues surrounding family preservation resources, present and future funding streams and alternatives to foster care intervention.

The conference was successful beyond the sponsors' expectations. It attracted 240 participants, representing numerous legal and social services programs who work in family preservation throughout. All participants were delighted and encouraged that these two fields were brought together, especially at a time of diminishing governmental support for preservation of the family. The conference began to open doors between the communities that are intimately involved with family preservation and legal and community services.

The conference achieved its initial goal of opening up a dialogue between the legal and social service systems serving families who are vulnerable to foster care. The second goal, developing and maintaining a network of legal advocates and community-based organizations, continues to evolve. The members of the conference planning committee are reaching out to advocate in their communities for multiservice family programs. Given the recent political changes at all levels of government, it is even more urgent to push for creative and effective programs that preserve our most important resource: our families.

The *Journal of Law and Policy* is publishing only certain keynote speakers from the conference to present diverse perspectives among policymakers and practitioners about methods of effectively preserving families. Hopefully, the publication of their

² Ms. Spinak is currently attorney-in-charge at the Legal Aid Society, Juvenile Rights Division.

comments will stimulate more discussion of this issue and possibly encourage similar conferences.

What follows is the transcription of extemporaneous comments, none of which the participants ever contemplated would appear in written form. The *Journal of Law and Policy* edited the comments lightly to maintain the unique flavor of each speaker's original remarks. Although footnotes have been added in a few places, this has been done primarily for the reader's information and convenience. Therefore, such footnotes are not meant to be exhaustive with respect to the propositions that they support.

*Marva Hammons**

This day, this place, this time, this group is absolutely the right day, the right place, the right time to meet and talk about preserving families and strengthening communities. Doing it together on any day, but particularly these days, is going to be a very critical component of preserving families. I say that because we have probably been talking about preserving families for a long time. There was a national conference in these United States in about 1909 and it really set the stage for the whole philosophy and guiding principles about family preservation.

I can tell you that the whole concept of preserving families contains a sort of tension within itself because we have varied degrees of understanding about what family is. Some people want to go with a very strict notion of two parents of the opposite sex with two and one-half children. We all know that view is a limited, perverted view of families. It makes it almost impossible to do what we need to do in an environment where many people still believe in that strict notion as the only way that families should be in any community.

That is not family. Family is that constellation of persons within a household who consider themselves family, who work with one another to make sure that, as family, they survive and who do what they can to enable one another to achieve full capacity. As we heard earlier, it is important for each of us to do what we do best. Well, within families, that is what you are able to do—what you do best.

This debate about family and about preserving families is getting complicated, not merely because of the changes, the massive changes in Washington and the fiscal crises that are hitting New York City, but also because the profession is not sure what family preservation ought to be. The profession is not sure whether

* Administrator-Commissioner, New York City Human Resources Administration ("HRA").

or not programs, which label themselves "family preservation programs," have really done what they set out to do.

You all are probably very aware that the New York City model, our Family Preservation Program, is really based on the Homebuilders model,¹ which came out of the state of Washington. I do not know if any of you have read any of the articles that are beginning to come out, but one of the founders of the Washington model is now beginning to challenge the whole concept of the family preservation model. Yes, the guru of Homebuilders² nowadays is talking about the fact that the family preservation model does not work. So I do not think that the concept of preserving families is just being challenged from the capitol in Washington, D.C. It is also being challenged from the rank and file who have had some allegiance to this concept of family preservation and who, in fact, have practiced the "family preservation model" for some years now. If we allow the concept of family preservation to be defined by this outside debate, we are in deep trouble. We have to define for ourselves what family preservation means. We have to define for this community how we will do it.

Let me give you a little bit of a vignette about some of the people that my agency works with, along with yours and with many of you, to make sure that their families are preserved. We are talking about a mother of five who lives with her boyfriend, who is the father of her newborn child. They came to our agency's attention following the birth of the last child who tested positive for cocaine. Now this was not a surprise, since mom had a long history of substance abuse. She had not followed through on her drug treatment referrals, she sold her food stamps and she did not keep appointments. Her children were attending school, but not as often as they should have. Some of the children's immunizations had not been done. She needed a better apartment in this city. Both parents needed a job.³

¹ Rob Karwath et al., *Fixing DCFS Mess Begins with Basic Steps*, CHI. TRIB., Mar. 11, 1994, at 1 (discussing the Homebuilders model and similar family preservation programs).

² Dr. Jill Kinney, co-founder of Homebuilders and executive director of the Behavioral Sciences Institute.

³ This is a composite of several cases seen within HRA over the past year.

Now some of the analyses of families would say that this is a “fragment” of a family. There are some studies that are going on, some research that is trying to determine whether or not family preservation programs work. Those research studies talk about this kind of family as being a uniquely challenging family construct because it is a “family fragment.”⁴ That is a family which has other adults who can come in and out of the family unit or in which the family unit will go live with other relatives and then move out. So in a sense, that characterization of a fragment of family is true. On the other hand, this family, this mother and this father, who are in the household, had what all of us had when we think about our families: a desire to remain together, to make the family work and to be there for their children.

So they were right for inclusion in a family preservation program. They were right for FPP⁵ to work with them to do concrete activities, including finding a better place to live, cleaning it up, getting the children in for immunizations, making sure that they got to the door of the drug treatment center, making sure that employment opportunities were looked at and keeping appointments—all those kinds of supports that many of us got from our parents, our aunts and uncles, or our friends who kept us on the straight and narrow.

Family preservation occurs because a constellation of people care and work to preserve the family. Even that idealized family of two parents of the opposite sex with two and one-half children does not make it alone. Any family is preserved because of the collaboration with people around the family who keep it in order and that is, in fact, what family preservation programs are designed to do. That is what our FPP program does in concert with a lot of other agencies. So, if we are talking about building competence, and if we are talking about building confidence, then the family preservation program concept, which is, in fact, a collaborative model, works. And that is what is so important about this place and this time. Because collaboration—either around protecting and

⁴ Heather MacDonald, *Politics and Family; The Ideology of “Family Preservation,”* CURRENT, Oct. 1994, at 14.

⁵ HRA’s Family Preservation Program.

preserving the family or around those agencies that provide the services to build competence, to build confidence within families—that collaboration is really key to making sure that families are preserved.

The way we believe family preservation for this city should be structured is that it needs to occur in neighborhoods because strong families and strong neighborhoods make strong communities, and these strong communities make the city viable. So as we talk about family preservation, we have to go even deeper than just talking about collaboration and keeping families together so that all of the members of the family can reach their capacity. We need to talk about all of the things that put them at risk of deterioration and disintegration.

Now we are talking about other kinds of social and economic issues, including poverty, including whether or not the job market is strong enough to support all the families so that they can find employment and keep employment. We are talking about issues which are, in fact, larger than one agency or one program. We are talking about our basic social system, which probably requires another meeting of this type to talk about those very deep issues for this country. Those very issues of social economic stability, those issues of class, which are increasingly becoming a difficulty for this country, those are some of the underlying issues that we also need to talk about because any program run by my agency and its family preservation program—one to which we are committed—is not, in and of itself, going to resolve all of the issues. We need to talk about some of those other underlying issues that are societal and economic issues in order to really and truly do the kind of long-term change we talk about.

Now, long-term change means marshalling the resources of the legal community, the private sector community, government institutions, not-for-profit agencies, families, extended family, friends and neighbors. Everyone must be a part of this picture of preserving family. No one agency or organization has all the resources. Together, however, we can bring resources to bear that will keep these families together and preserve their linkages to the services and assistance in the community that make it possible for families to thrive.

One of the other things that is important to talk about, when we talk about family preservation, is something that families need and that we provide in our program. That is an advocate for the family and a mentor for the family. All of us have had to rely on advocates and most of us have a mentor who is a significant part of who we are, who has helped us get where we are today. So the family advocates and the family mentors which are a part of our specific family preservation program are really key. That is, in fact, more of what we need to develop in order to make real this idea of what it takes for families to thrive in this culture, in this environment and in what are going to be very, very difficult times.

And on that note, I think I will end because we want to give some of our time to the other speakers. And then we will have some dialogue.

Thank you.

*Megan E. McLaughlin**

Thank you.

I would like to begin by both congratulating and thanking the conference planners, Legal Services of New York City and Columbia University School of Law. Members of the legal and social services communities seem to be working toward the same objectives, but rarely do we have the opportunity to discuss issues of mutual concern. I am very pleased we are getting together here.

It is appropriate for us to talk about family preservation at this time when *elected officials* and the *electorate* seem ready to institute policies to punish the poor and to rip asunder fragile families. I will take my few minutes to distinguish between Family Preservation, the program, and family preservation, the concept. If I seem a little bit out of sorts, it is because I have spent this morning and early afternoon writing about orphanages. To travel from orphanages to family preservation is a rather drastic move for me. The question is whether we go from orphanages to out-of-home care to family preservation and back to orphanages. I am having a difficult time with these transitions.

First, let me discuss Family Preservation in New York City. The program began during a time of crisis. I write all of my papers when they are due, and am in a state of crisis. I have a feeling most of us can identify with that since crises sometimes compel us to do what we need to do. We can be hopeful that out of this crisis, we may end up doing some of the things we need to do.

The foster care population rose from a low of 241,900 in 1960 to 502,000 in 1977.¹ There was a slight decrease after that to 429,000,² but it subsequently increased again so that by 1991,

* D.S.W., Columbia University School of Social Work; Executive Director-CEO, Federation of Protestant Welfare Agencies, Inc.

¹ NATIONAL ASSOCIATION OF BLACK SOCIAL WORKERS, INC., PRESERVING AFRICAN AMERICAN FAMILIES 38 (1991).

² CHILDREN'S DEFENSE FUND, THE STATE OF AMERICA'S CHILDREN YEARBOOK 20 (1994).

there were approximately 442,000 children in out-of-home placement in this country.³ The pattern in New York State was similar. There were 50,000 children in foster care, in out-of-home placement, in New York State in the early 1970s⁴ and by the late 1980s, there were 50,000 children in foster care in New York City alone.⁵ That's certainly a crisis. Children were removed from their homes for abuse and neglect but, as the commissioner said, the definitions of abuse and neglect are not scientific and are left open to interpretation. Many of the children actually were taken out of their homes because of poverty: their parents simply could not afford to provide for some of their basic needs. A study of New York City, conducted by the New York State Department of Social Services, demonstrated that approximately twenty-five percent of children in certain neighborhoods in New York City would be placed in foster care at least one time before reaching age six. That is a chilling figure and it is cause for alarm. There are data to show that a significant number of children who spend time in foster care adjust well after discharge. However, far too many end up in other institutions or suffer other negative consequences throughout their lives.

The Family Preservation programs evolved out of a concern for the number of children who were being taken from their biological parents, usually the mother. The prototype model, the Homebuilders model⁶ is not a revolutionary idea. Frankly, it is something that any of us could design. The model is based on the concept that families in trouble need help to keep them together. This is crisis intervention. The Homebuilders model provides services during a period of intense crisis to families on a twenty-four-hour basis over a short period of time. Commissioner Hammons said that one of the persons who (and I am just hearing

³ *Id.*

⁴ REPORT OF THE MAYOR'S COMMISSION FOR THE FOSTER CARE OF CHILDREN, FAMILY ASSETS: KINSHIP FOSTER CARE IN NEW YORK CITY 23 (1993).

⁵ *Id.*

⁶ JOAN BARTHEL, FOR CHILDREN'S SAKE: THE PROMISE OF FAMILY PRESERVATION 79 (1992); JILL KINNEY, KEEPING FAMILIES TOGETHER: THE HOMEBUILDERS MODEL (1991).

this for the first time and I am not surprised) founded the model indicates that the model is not as successful as hoped. I am always amazed at how quickly we are prepared to throw out programs that we never implemented fully in the first place. We do not fund adequately and give them little chance to work. What else do we throw out after three or four years? I cannot think of anything. Whenever we design programs for poor people, we readily dismantle them when faced with barriers or disappointments, including those that are inherent in starting up new programs. I run a very small agency, the Federation of Protestant Welfare Agencies. I know that start-up of any kind is difficult and requires a great deal of time and effort. I am sure Commissioner Hammons could not possibly implement the type of Family Preservation program she would like for the number of families she would like within a four-year period in the massive structure of the Human Resource Administration. Maybe Family Preservation is not perfect, but we must give it a chance. It is a relatively new program and deserves more attention.

There is always an underlying premise which I hope we keep in mind as we talk about families and Family Preservation. It is that there is hostility to poor people in this country, evidenced by the policies now being promulgated. There is also a racist undercurrent because many people believe that when we talk about the poor, we are really talking about people of color. Contrary to public perception and stereotype, the majority of the poor in the United States and New York City are White. This information should be widely disseminated because there is a reluctance to address problems when the majority of victims are people of color. At this time, we must be particularly vigilant because there is a coming together of some very hostile, hateful forces. For example, many now advocate the use of orphanages as an appropriate alternative to rear poor children. Although Newt Gingrich⁷ is a "fiscal conservative," he supports orphanages even though they are more costly than out-of-home care or family preservation programs.⁸ We

⁷ Speaker of the U.S. House of Representatives, (R) - Georgia.

⁸ Megan E. McLaughlin, *Orphanages: An Idea Worth Adopting!*, N.Y. DAILY NEWS, Dec. 7, 1994.

also have Charles Murray and Richard Herrnstein, authors of *The Bell Curve: Intelligence and Class Structure in American Life*. They have manipulated data to show that children of the poor, particularly children of color, have low I.Q.s. What is the real objective of these concepts at this time? In my view, they are providing the rationale to banish the children of poor people.

More recently, to bring the issue closer to home, *Crain's New York Business* published two feature articles about not-for-profit organizations. These articles sought to undermine the credibility of not-for-profit organizations and suggested that the corporate community should not support not-for-profit organizations that are pro-business. Again, I think it is important for us to understand that these are not isolated phenomena. As social policy analysts, it is important for us to examine these seemingly isolated trends because, in fact, they do come together and represent a concerted and comprehensive attack on the poor.

I said I was going to say something about Family Preservation, the program. I did that and then strayed. Now I would like to distinguish that [Family Preservation, the program] from family preservation the concept. Frankly, I do not think of Family Preservation as simply a program. When we talk about preserving families, our scope is broader than a program. Instead, we view it as a concept. It is important for those of us in the field of social services to recognize that we cannot solve most of the basic problems confronting poor children and poor families alone. Child welfare services, including the best designed, most effective family preservation programs, cannot solve the problems that poor people have because, for the most part, these families enter the child welfare system because other systems have already failed them. The child welfare system will not solve all their problems because it cannot solve the problems of housing, insufficient jobs, inadequate education, or insufficient access to health care. And we must say that loudly and clearly. As much as I support Family Preservation, the program, it is only a temporary and partial solution to a crisis—an intervention for a crisis situation—but not the answer for the multiple problems that poor families are facing.

It is impossible for us to talk about families in New York City and the hostile reaction to them without talking about women, because we are talking about a number of female-headed families.

In 1990, children comprised 23% of the total New York City population and made up 34% of all poor people in New York City.⁹ Women made up 54% of the total population and 58% of the poor population.¹⁰ I am not poor at the moment and I always remind audiences that I have a doctorate which I received from Columbia University. But I am one major illness away from AFDC,¹¹ and those of us who think we are such “hot-shots” need to keep that in mind. Women are among the poorest people in this country and in New York City. And yet, we spend most of our time denigrating women who try very hard to keep their families together. In meetings such as these, I submit, we ought to discuss ways of supporting women who must head their families so that they can better raise the boys and girls within their family unit. I hope that during the afternoon sessions, as you talk about Family Preservation, the program, you will also discuss specific strategies for supporting women who head families. It is very difficult for me to stand up here and talk about Family Preservation because while we are talking, many programs designed to preserve families are being eliminated. We know it is impossible to preserve families without adequate income and day care or child care, without after-school programs for young people to attend and without adequate food and shelter. Families live in communities and these communities should include some basic supports that all families need to perform their functions. I am as concerned as anyone else about the economic status of our city, state and nation and believe that efforts must be made to balance our budgets. To do so is in all of our interests. But budgets should not be balanced solely on the backs of poor people.

I would like to close by sharing an Ewe proverb that says: “When the snake is in the house, one need not discuss the matter at length.”¹² Those of us who are concerned about preserving families must realize that the snake is in the house.

⁹ CITIZEN’S BUDGET COMMITTEE, POVERTY AND PUBLIC SPENDING RELATED TO POVERTY IN NEW YORK CITY 7 (1994).

¹⁰ *Id.*

¹¹ Aid to Families with Dependent Children, 42 U.S.C. § 651 (1982).

¹² ERIC COPAGE, BLACK PEARLS DAILY MEDITATIONS, AFFIRMATIONS AND INSPIRATIONS FOR AFRICAN-AMERICANS (1993).

*Geoffrey Canada**

Thank you. I am really excited to be here. Something is happening in this country that is sort of interesting. When we listen to the new rhetoric of government these days, you get this sense that there is a bunch of poor people in America having a great time. "Man, it's so much fun being poor. We could just sit around, without jobs, without money, without anything and just have a great time." And we really have to fix these people and straighten them out. We just have to show them the errors of their ways. And get them so that they want to work and have jobs and money like the rest of us.

Where did this concept come from? I just don't understand where suddenly the beating up on poor women and children has become their favorite pastime. I'll tell you where I think it came from. I think it really started with the baseball strike. A bunch of Americans got very frustrated that they did not have baseball. Because they had to find a new pastime they decided to beat up on women and children. I just do not get this idea that we should slash and burn budgets that benefit poor people as a strategy for moving this country forward. I just don't get how we get there. When you look at the economics, it makes no sense. We know that if we do not provide preventive services to children and families, then it costs us more. Megan McLaughlin mentioned something people aren't even talking about. Some of the most fiscally conservative policy makers are talking about doing things for children and families that are actually more expensive. We are really talking about punishment here. And why is America so angry at poor people? There is a real question here. I think a lot of it has to do with anxiety over the economy. People are very concerned about not having the security of employment the way that Americans used to. Clearly, when you start hearing about Charles Murray's *Bell Curve* as a racial justification for social policy, we are really talking about an underlying resentment of poor people based upon

* President-CEO, Rheedlan Centers for Children and Families.

economic insecurity. When these issues come out, you have to say, "Wait a second. What's going on here? Why are we suddenly moving down that road now? Who is this aimed at? What part of a population are we really trying to convince that this policy makes sense?" If we stop and think about that, it would help us understand what is happening in this country.

Knowing that poor people are now under attack, many of us are going to spend a lot of our time defending programs that may never have been adequately funded, never reached enough people and never really had a long enough time to work. The government is going to slash and burn all these budgets. In about five or six years from now, when things are really horrible, they are going to look at those of us who survived, and who knows who that will be, and say: "What's wrong with you people? You've been in this, how long Geoff, and you have not straightened this mess out yet? Something is wrong with social services." We know very well what is working and what we need to do for children and families. That is not an issue.

We can talk about family preservation in a couple of interesting ways. I am involved in family preservation because I am involved with the Edna McConnell Clark Foundation Children's Program, which has done a lot of funding in this area around the country. We spend a lot of time talking about the Homebuilders model of family preservation. Homebuilders is Family Preservation, capital F, capital P, which I am going to separate from some of the federal legislation and some of the other ways people talk about family preservation. Homebuilders involves intensive, short-term family preservation services where social workers carry very small case loads and spend lots of time with families. The purpose is to deal with families whose children would otherwise go into foster care placement. That was the theory behind the Homebuilders model, but there are many problems in applying that theory. We try to figure out whether a family's children would go to foster care and who makes that decision, but it is very complicated. When you look at what has been happening to children and families in this country and you begin to see that for so many children and families there is no gatekeeper for determining whether they go into foster care, family preservation makes a lot of sense as a gatekeeper. We ought to ask, "Is there another option for this family besides foster

care?" If the answer is no, then we know that foster care is the appropriate program. If, on the other hand, the answer is yes, then we ought to pursue that other option. Family Preservation, capital F, capital P, should be the gatekeeper for every child. We should have a large enough program so that, before any child goes into foster care, someone has stopped and said, "Are we sure that there's not another way to do this?" That model of Family Preservation, capital F, capital P, is arguably more cost-effective.

I have also had some problems with that model of Family Preservation. You must take that model and make sure that communities are developing support for children and families, as well as doing crisis intervention. You can go into some communities and say, "Well, now this family is going to have a problem for this particular moment." Now, I have a couple of grown children, so I know about how long it takes to raise them. Well, actually that's not true, because even though they're grown they still call me for all the stuff they used to call me for: advice, money, crisis. You think this goes away, but it doesn't ever go away. They just call and call and they are always in crisis; there is always something going on. But the idea that you could do something for about six to eight weeks and solve the problem is outrageous.

I would love to say that because I am in this field, I have been a great parent and my kids got over their crises, but it is not true. When my kids had a crisis, it was not always me who dealt with them. Often I had an uncle or an aunt or someone else who helped. Sometimes I'd take it. I was raised by a single parent. But there's a certain point in time where you need to have a second person there because, otherwise, the parents would kill the child. I have been there. It is like tag-team wrestling. The other person goes out and deals with it until they can no longer stand it.

Raising children is really difficult work. If you look at a family and think that you can take care of their problem in six to eight weeks so that they will never have a problem again, and you look at some of the conditions that the family has to deal with, you will begin to understand that family preservation needs to be one component of a long-term, community-wide strategy of assuring that children and families are protected and safe. That's a different sort of family preservation than what we are talking about now.

That's not necessarily short-term intervention. That is making sure that they are supported.

All children and all families have the same kind of needs. We want to make sure that all children have a healthy start. We need to make sure that children have health care and access to doctors and nurses. And I can only tell you, that if you've raised children you know that this is just an instant crisis. Your life could be fine, but the moment your child gets sick, you are in instant crisis. If you do not have medical care, there is no answer to that crisis. I do not care what Newt Gingrich or any of them want to do, there is no way of saying that parents are bad parents if they cannot solve problems that they did not cause. The same goes for safety. I don't know if any one of you have ever been locked up with an adolescent before. I hope there aren't any adolescents in here; I don't want to insult anyone. There is nothing worse than being locked up with an adolescent for about a week. I tell parents, "You want to punish your children and then you say things like, 'you can't go outside for two weeks.'" Who are you punishing anyway? Young people need to be in a place that's safe, exciting and challenging. You immediately put families into stress when there are not safe places for children. You cannot keep young children with you twenty-four hours a day. Young people need to be other places, doing things that allow some of that pressure to be released from families.

We also need to make sure that our parents have some economic security. I don't understand, in terms of family preservation, why no one does an economic analysis and asks, "Can anybody live off this amount of money?" Someone should say, "Here's enough money, we know this family could live off this money." Now we're talking family preservation. I would like to see any of the debaters on welfare reform live off an AFDC¹ grant. Before we begin to badger parents about what they are or are not doing, let's be honest about what it takes to make it in this country. The idea that there is not an economic safety net for families is a real shame in a country in which it is so expensive to live. It is so

¹ Aid to Families with Dependent Children, 42 U.S.C. §§ 601-617 (1988 & Supp. V 1993).

expensive to find housing and to do anything for children and families. We have to really begin to look honestly at what we are giving families to live on to make sure that they have economic security.

The other issue that we have to talk about is the impending welfare reform. We are about to put a whole different set of children and families in crisis. No one is really talking about whether we have efficient child care for parents; no one is dealing with the whole economic and job situation. We need to make sure that when people begin to talk about welfare reform, they do not end up bashing poor people again. Otherwise, people will feel like the issue is that there are all these lazy people and we just need to kick them in the rear-end so that they will just quit being lazy and do something. It is not like that. If you lose your job and hit the streets for a while, you will find out that it is not like, "Let's go get a job and live a happy life ever after." It is extremely tough out there and if we have not prepared families, if we have not made sure that they have an opportunity to learn effective skills so that they can enter into the job market, it is really silly to look at what we are giving them on welfare and say this is some sort of gift. No one can live off that. It is the cheapest thing we could ever come up with in terms of family support.

When we are talking about family preservation, we have to make sure that the real Family Preservation, capital F, capital P, will serve as a gatekeeper for families going into foster care. But we also have to make sure that our communities can really support families in a way that prevents them from going into crisis.

Thank you.

*Roger L. Green**

I want to first of all thank you for allowing me to come before you today to share some thoughts on the concept of family preservation. I want to thank Legal Services of New York City for the outstanding work that they've been doing with their family law project that has been sponsored, in part, by the help of the state legislature. We think that this represents the right direction in which we ought to move in terms of our state government. And of course, thanks to Columbia University School of Law and the Columbia University School of Law Family Advocacy Clinic. I think having heard about the number of things that they are doing here, it is fitting that we are in this setting today as we begin a discussion about the whole issue of family preservation.

To the best of my ability, I would like to personalize this discussion. I would like to contextualize my remarks by first dealing with the whole issue of family preservation from a personal perspective. Before becoming an elected member of the New York State Assembly and the chairperson of the Standing Committee on Children and Families, I was known primarily as a poor boy from Brooklyn. My family came up from North Carolina as migrants in the first wave of African Americans who came to New York City and we lived in the Bedford-Stuyvesant section of Brooklyn, in a section that was called "the soul in the hole." My family was essentially run by our matriarch, Alice Debnen, my grandmother. I had two homes, like the Kennedy's. One was on Madison Street between Sumner and Throop and the other was on South 7th Street in Wilmington, North Carolina. My brother and I and other members of our family spent our developmental years between these two homes. I am saying this so that I might tell a story about something that occurred to me during my developmental years; to share with you an experience that shaped my thinking and my world view on the concept of family.

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My grandmother was a leader of the church. She was a member of a cohort of matriarchs who came to Brooklyn, New York and began an organization which developed a new church called, Concord Baptist Church in Brooklyn. Concord was first located on Adelphi Street, in Brooklyn, and then it burned down. And these women got together and they began the process of building this church anew. It is now the largest Baptist Church in Brooklyn.

What I recall about growing up is that, in this community, there were all these women and one of the things I recall is going to church dinners and church breakfasts and church picnics and church, church, church. And I recall meeting a number of women who had these strange names. One, I recall, quite frankly, is Iona Johnson. We'd go to a breakfast and my grandmother would say, "I want you to go see that lady there." I said, "What's her name, Grandma?" And it was Louise Iona Williams. Then I would go to another church meeting that was organized by the church and there sat Iona Madison. I guess by the time I was in my first year of college, I was trying to figure out why all of these Black women were named Iona.

And this is a true story. I was with my Uncle Logan, who was a real character. He was the oral historian in the family. And it was in his living room in Wilmington, North Carolina that we used to have these debates. He would lead the debates. And I recall one of the debates we all had was the debate over whether Lincoln freed the slaves. My uncle, who considered himself the center of all knowledge in the world, said, "No, Lincoln did not free the slaves." Of course, our cousins said, "He's crazy. He's absolutely crazy." And my Uncle Logan would say, "No, Lincoln did not free the slaves. He fired them." And then we would look at each other and we would say, "Oh, he fired them, is that right?" He said, "Yeah, when was the last time you had a job?" Having concluded that my uncle was the center of all knowledge in the universe, I asked him this one night: "You know, I have another thing on my mind. Why are all of these Black women named Iona? What's to this? There's a lady down the block and her first name is Iona." And he said, "Well, that's one of them code names." I said, "Code names? What do you mean code names?" He said, "The old peoples," that's how he used to say it, he said "The old peoples used to give their children that code name 'Iona'." I said, "What are you talking

about?" And he looked at me like, "Phew. You're incorrigible. You're in school and you don't know a thing." Later on in life, I was studying cultural anthropology at Southern Illinois University. And he said, "Go back and study." He said, "Aunt Lizzy used to tell us the story about these women named Iona." He explained that during the period of chattel slavery, as the family law at that time was based upon the deconstruction of the African American family, children would be torn, literally, from the tit of a mother and sold to another state or another town, another region. And the slave overseers and the slave masters would essentially place the children in the hands of another adult, usually another slave, to preserve this commodity, this human property. But the mothers, in defiance of these slave laws that attempted to deconstruct the families, would place a name on the children saying, "I own her." I went back and studied the slave narratives and the history of the language of the slaves who came from the West Coast and who spoke the Gulla language, an African dialect. They weren't saying "Iona," they were saying "I own her." So that many of these women named "Iona" had, in fact, been raised in kinship homes throughout the South by other families, and they were given this code name, Iona, at the time of this cataclysmic tear in the family structure. And that's how all these Black women, these little, old, Black women were named Iona.

The point that I am trying to make, as we begin the process of talking about a family preservation policy, is that you cannot develop such a policy or program without linking it to the historical realities from which the majority of the people come. Nor can you develop a family preservation policy without also connecting it to the historical reality and the contemporary objective realities that children face today. And at the same time, we cannot develop family policy without also having a dialogue that demonstrates empathy and universality.

This being the United Nation's Year of the Family, one can imagine that there is this universal connection, if you will, between the mothers in the Deep South, who saw their children torn from them as a result of the slave culture that existed in the United States, and perhaps the mothers in the Warsaw Ghetto who, as a result of the Nuremberg laws, saw their families and children being torn from them. And so it is appropriate that this is the Year of the

Family and that we think about this in universal terms, as well. Connecting all of this, if you will, is the challenge of my message: to try to contextualize all of that with the current challenges that we face today, as those who are charged with creating family law, advocating for the existence of family laws and, most importantly, preserving the next generation.

Formation of a family policy must look at the historic realities. Central to the history of many of the children who are in foster care, sixty to eighty percent of those who are in foster care are children of color, and sixty percent are African American and Latino children.¹ Is this struggle to maintain the family against great odds? History is replete with that. At a time when the slave laws also forbade us to marry each other, we had a tradition, and still do today, called “jumping the broom.” This was something else that I could not understand. All these family reunions in the Deep South, when I would go south, were organized around weddings. During the weddings, folks would place a broomstick down on the ground and they would jump the broom. And I’d say, “Well, what is this about?” I was told that when the slave laws prohibited African people from being able to marry each other, the slaves, in defiance of those laws and in celebration of their undying love for each other, used to link arms and jump the broom. My cousin Barbara, two weeks ago, told me that our family reunion next year will be in North Carolina and is going to be organized around her wedding, in my grandmother’s backyard, on South 7th Street, in Wilmington, North Carolina, at which time she said she’s planning to jump the broom. This tradition still exists today and that is why it is important to understand that it is central to the struggles of these people to keep their families intact. To a great extent, unfortunately, as bad as chattel slavery was many years ago, we are now faced with new challenges and new objective realities that perhaps are as serious as those faced by enslaved Africans in years past.

I also chair a group called the New York State Legislative Task Force on African American Issues, which is comprised of all of the African American elected officials in the State Assembly and State

¹ ANNIE E. CASEY FOUNDATION, KIDS COUNT DATA BOOK (1994).

Senate. Last year, members of our task force, after serious deliberation, concluded that we needed to meet to address what we felt was the fundamental crisis and moral imperative of our time, which is in fact the profound crisis in which we find our children and families. So we met December 3, 1993 in Albany for three days of nonstop deliberation, in which we talked about this profound crisis and we concluded that we needed to present a document to the governor that said, in fact, that our children had slipped into a new form of genocide. This was difficult for us. Being elected officials, we are very cautious about the type of terms that we use publicly. We did not want to devalue the historical currency that is placed in a term like genocide. But, we felt that, based upon all the evidence that we had before us, there was nothing else for us to say except that it was a new form of genocide, which we defined as "youthacide." By definition, we meant the systemic societal neglect of children which has caused large-scale victimization and self-destruction among our youthful populations. We defined the responsible society not only as the family, but also as the government, our private sector, the whole village. We have neglected our children to the point that they have, in fact, slipped into a new form of genocide.

Family policy has to be linked to this objective reality. Let me give you an example of what we are talking about by taking a snapshot of my assembly district. Let us look at it and what is happening to children from cradle to grave. First, we shall look at the economic realities. Megan McLaughlin was here yesterday. I met with her several weeks ago, and she said a recent report came out, reinforced by both the Children's Defense Fund and several other groups, that three out of five African American and Latino children in the City of New York are now living in abject poverty.² That is three out of five. When Megan wrote the symbol three-fifths on a piece of paper and handed it over to me, it sent a chill up the back of my spine. We started thinking about the three-fifths clause in our constitution; that when our constitution was first constructed they defined African Americans as three-fifths of a person. But that's not what Megan McLaughlin was talking about.

² CHILDREN'S DEFENSE FUND, ANNUAL REPORT (1993).

She was talking about a new challenge related to the fact that three-fifths of our children are now living in abject poverty, which can only be compared to the poverty rates in third world nations. In my district, as an example, the infant death rate is twenty-seven deaths for every one thousand live births for children born as compared to the infant death rate in Costa Rica, which is nineteen deaths for every one thousand live births. The infant death rate in the Morrisania section of the Bronx is thirty deaths for every one thousand live births, almost twice as high as the infant death rate in Costa Rica. The infant death rate in Trinidad and Tobago is twenty deaths for every one thousand live births. So here, in one of the wealthiest cities in the United States of America, the wealthiest nation on this planet, we have children living in conditions that can only be compared with the status of children living in the third world. The Annie E. Casey Foundation reported last year that more than one-half of all infants and toddlers born in the borough of the Bronx are born impoverished.³ Upon reviewing this report, members of the legislature charged their research and development group to analyze the phenomenon of child poverty by assembly districts. As a result of additional information, we are now finding that the rate of impoverishment for children in some assembly districts exceeds sixty to seventy percent.⁴ This is a profound crisis. You cannot develop family policy without looking at the economic conditions that are impacting upon these families.

Historically, homelessness and poverty among families have been inextricably linked in this country. We know that an African American child born in the City of New York today will have a one in eighteen chance of living in a homeless shelter sometime during his or her childhood.⁵ On any given night, there are more than twenty thousand children living, literally, on the streets of the City of New York and most of these children are of color.⁶ Most of them are of color, though there is a growing number of children who are White and finding themselves in the same conditions. And I will try to illuminate that point because that speaks to the

³ ANNIE E. CASEY FOUNDATION, *supra* note 1.

⁴ ANNIE E. CASEY FOUNDATION, *supra* note 1.

⁵ ANNA LOU DEHAVENON, *NO ROOM AT THE INN* (1994).

⁶ *Id.*

challenge of having empathy and also the challenge of creating a policy that's based upon universality.

Homicide now serves as the leading cause of death for African American and Latino youth.⁷ Suicide is the second leading cause of death for our children.⁸ Rates of incarceration also directly impact on family policy. There is no question that the current state prison population exceeds 62,000 people. Most of those incarcerated are youth between the ages of eighteen and twenty-four, most of whom have children, which has a direct bearing on family policy. What are we doing for those children whose parents are now incarcerated? They are incarcerated because of our prison industrial complex. We have this misguided policy that impacts on our families called the prison industrial complex, which I know, as the chairperson on the Assembly Standing Committee on Children and Families, costs us \$88,000 to \$90,000 a year to keep a youth incarcerated in jail. Every year, powerful special interests will come to Albany and lobby to create additional prisons at the expense of schools, day care centers and early childhood education programs. And when these prisons are developed, they are placed in areas of New York State where there are depressed economies of our White neighbors. These prisons are offered to our White neighbors as a perverse economic stimulus package. And the folks who win are the folks on Wall Street, primarily because they sell the bonds to build the prisons, and all our families suffer in the long run as we mortgage our children's futures to the prison industrial complex.

The question then becomes, after looking at these historical and objective realities, "What do we do?" I always suggest that the key thing is to seek common ground. What we see occurring among African American and Latino children is inextricably linked to what is now occurring to White youth in contemporary American society. While homicide is the leading cause of death for African American youth in our country, suicide, combined with the abuse of drugs and alcohol, now serves as the leading cause of death for White youth in contemporary American society. One population of youth explodes, while the other population implodes. Each of them

⁷ U.S. DEPARTMENT OF LABOR, STATISTICAL ABSTRACTS (1993).

⁸ *Id.*

linked by this common misery index that has been driven by a failed family policy. And this failed policy is related to the political realities that create a family policy. We need to talk about the implication of the November 8, 1994 elections and what it means for family policy. Newt Gingrich, as the speaker of the House of Representatives, says there are three things that he wants to do as part of his family policy. Abolishing Head Start is one of his objectives. He also wants to deconstruct welfare, not reform it, but he wants to create new orphanages so that another generation of children can experience the tragic, cataclysmic tear of their family structures and perhaps force another generation of mothers to cry, "I own her."

Family policy is directly related to fiscal policy. The maldistribution of wealth within our society is directly related to family policy. We now have one percent of the families in this country controlling ninety percent of the assets. As a result, there are more and more people who are impoverished. We must seek common ground and I think that is why it feels so good to be here today in the company of the faithful. We must seek common ground. We must first create a new political intellect that defines children and youth as a protected class. Whether the government has a surplus economy or deficit economy, whether interest rates are up or down, the first priority of our government is to put children and our families first. In the City of New York, when the mayor talks about the cuts that must be made, we must say that if you have to reinvent government, you must reinvent government for the next generation by placing our children and our families first. We must tell the national administration to put children and families first. That means creating a family policy that includes comprehensive and universal child care, day care, family leave and full employment.

Finally, we need to deal with this issue in the context not only of the material impoverishment that impacts upon our children and us, but also in the context of the spiritual impoverishment. This is why family is so important. We speak to this in the context of true family values, not as simplistically as that articulated by former Vice President Dan Quayle, but we are talking about family values that are exemplified by what we define as shared sacrifice. That is what is missing in our American culture at this point in time. That

is what African Americans, Latinos, Asian Americans and White Americans have struggled for—the feeling of community that family gives us. That is why many of us today now embrace the wisdom and values of the old African proverb which states: “It takes the whole village to raise a child.” That is family policy. To enact real family policy, we must struggle. We must struggle.

It is not enough for the advocates and the lawyers and everyone else to come into this room today and tinker around the edges to just offer a policy. We must struggle. We must understand that this profound crisis is a real threat to our democracy. Not far from here, in 1967, Dr. Martin Luther King, Jr., on Riverside Drive, said that when he opposed the war in Vietnam, he said, “Bombs dropped in Southeast Asia would inevitably explode in our urban centers.” The statistics that I articulated to you earlier underscore Dr. King’s prophecy.

In the final analysis, Dr. King also said that the true test of the people is not based upon where they stand at a time of comfort and convenience, but it is based upon where they stand at a time of challenge in history. He then said that true leadership, that a crisis, as the crisis that I have defined, is not defined simply as a time of despair, but it is also defined as a time of opportunity. And the difference between despair and opportunity is leadership. And that is what we need here today when we move forward with a true family policy—leadership that will, in fact, save the next generation and, in turn, save all of us and our democracy.

Thank you very much.

