

# FAMILIES OVER FACILITIES:

## ENDING THE USE OF HARMFUL AND UNNECESSARY INSTITUTIONS AND OTHER GROUP FACILITIES IN CHILD WELFARE SYSTEMS 2021

IRA LUSTBADER, CHIEF PROGRAM OFFICER



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## WHAT IS THE FAMILIES OVER FACILITIES REPORT?

- A call to action to end the unnecessary institutionalization of children in child welfare
- An overview of the converging factors that make **now** the time to act
- A Declaration of Urgency outlining the human and economic toll and the legal implications of inaction
- An adaptable toolkit of strategies to drive the dramatic reduction in the use of institutional care



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## DEFINING INSTITUTIONS AND OTHER GROUP FACILITIES

- Out-of-home foster care placements in a setting other than a family home:
  - This includes all group homes, therapeutic group homes, residential treatment facilities, qualified residential treatment facilities, shelters, assessment centers, institutions, or any other “congregate care” setting.
- A highly time-limited treatment facility *may* be appropriate to address an acute medical condition. Providers of such care are a necessary part of the system.
  - However, these medically necessary, potentially lifesaving stays are meant to be physical or mental health treatments, not residential placements, and therefore we exclude them from the institutional and group care settings identified as unnecessary and harmful here.



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## WHY END INSTITUTIONALIZATION NOW?

- New federal law: Family First Prevention Services Act of 2018
- National moment of reckoning to disrupt structural racism and the overrepresentation of Black children in institutional and group care
- Heightened urgency arising from the COVID-19 pandemic
- Recent explosion of reports and shocking conditions in institutions and other group facilities



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## THE HUMAN COST OF INSTITUTIONALIZATION

- Inhibits relationships with buffering adults and creates new adverse childhood experiences (ACEs)
- Imposes isolation and loneliness that can cause chronic stress
- Exposes children to physical and chemical restraints, seclusion, physical and sexual abuse, and other maltreatment
- Feeds the foster care-to-sex trafficking pipeline
- Feeds the foster care-to-prison pipeline
- Contributes to homelessness, unemployment, and poor education outcomes



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## EDUCATION IS OFTEN AN AFTERTHOUGHT IN INSTITUTIONAL SETTINGS

- For onsite educational systems:
  - Grades are mingled, no structured lesson plans, limited access to elective courses, academic credits may not transfer to community schools
- For youth who attend school in a community school setting:
  - Lack of access to social events, team sports, and other appropriate activities
  - Children are stigmatized and singled out



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## THE DIMINISHED LIKELIHOOD OF FINDING A PERMANENT HOME

- Youth report relatively low levels of involvement in the permanency planning process, further impeding progress.
- Long distances and a lack of transportation impede family connections.
- Black children suffer at higher rates than white children:
  - Less likely to reunite with their families, greater placement instability, and spend a longer time in foster care.



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## ADVOCATING FOR THE RIGHTS OF CHILDREN - EXAMPLES

- **Substantive Due Process:** A child's fundamental right not to be harmed while in state custody.
- **Family Association:** The First Amendment confers a right to intimate association and to enter into and maintain certain intimate relationships.
- **Title II of the Americans with Disabilities Act of 1990:** States must integrate youth with disabilities in community settings.
- **The Individuals with Disabilities Education Act:** Requires that children with disabilities be educated in the "least restrictive environment."
- **Federal Fostering Connections to Success and Increasing Adoptions Act of 2008:** Requires that a child's case plan ensure their "educational stability."
- **Right to Counsel:** Congregate care is a physical liberty deprivation requiring counsel.
- **State Law Analogs to the Above**



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## THE PROFOUND ECONOMIC COST OF UNNECESSARY INSTITUTIONALIZATION

- The Direct Costs of Institutional and Group Care
  - Institutions and group facility placements cost **7 to 10 times more** than family-based placements.
  - A single state can pay as much as **\$95 million annually** to institutionalize youth.
  
- The Indirect Expense of Grave Outcomes After Institutional and Group Care
  - Institutions and group care fuel high rates of youth aging out of foster care without permanency.
  - Some estimates calculate **\$4.1 billion** in costs would be avoided for each new group of young people aging out of foster care if they had outcomes similar to their peers in the general public.



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## CONCLUSION AND DECLARATION OF URGENCY

For all of these reasons, we call for ending the use of harmful and unnecessary institutions and other group facilities in child welfare systems. This is a matter of significant human, economic, and legal importance, and must be pursued with great urgency.

Children's Rights
Karen Baynes-Dunning, Former Associate Judge, Fulton County Juvenile Court, Georgia
Gladys Carrión, former Commissioner of the Administration for Children's Services, City of New York
Center for the Study of Social Policy
Children's Advocacy Institute
Children's Defense Fund
Vannessa Dorantes, Commissioner of the Department of Children and Families, State of Connecticut
First Star, Inc.
Lexie Gruber, Child Welfare Advocate
Bonnie Hommrich, former Commissioner, Tennessee Department of Children's Services
The Justice Lab at Columbia University
Juvenile Law Center

Joette Katz, former Commissioner of the Department of Children and Families, State of Connecticut
Rafael López, Former Commissioner of the U.S. Administration on Children, Youth and Families and Former Senior Policy Advisor, The White House
National Association of Counsel for Children
National Center for Youth Law
New America
Public Knowledge
Think of Us
Hon. William A. Thorne, Jr., retired Judge on the State of Utah Court of Appeals and in the Third District Court
Molly McGrath Tierney, former Director of the Department of Social Services, City of Baltimore
Paul Vincent, former Director, Family and Children's Services, Alabama Department of Human Resources
Youth Correctional Leaders for Justice
Youth Law Center

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## FAMILIES OVER FACILITIES ADAPTABLE TOOLKIT – MAJOR THEMES

- (1) Preventing youth from entering foster care;
- (2) increasing the use of kinship placements for youth who absolutely must enter care; and
- (3) depopulating existing institutions and group facility placements for youth.



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## INTEGRATING YOUTH VOICE INTO ADVOCACY

- The necessity of lived experience informing structural solutions
- The power of youth voice in individual cases
- Great new report by Think of Us: ***Away From Home: Youth Experiences of Institutional Placements in Foster Care***
  - Read the report here: <https://www.thinkof-us.org/awayfromhome>



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