

Top Federal Child Welfare Officials: Family is a Compelling Reason

🕒 April 6, 2020 👤 Jerry Milner and David Kelly

In a world where “social distancing” has become a necessary practice and the primary preventative measure for reducing the spread of coronavirus, we must remember that children in foster care and their families have already been “distanced” from each other.

Protecting family integrity may seem like an expendable effort – something to be put aside until the world changes. The fact is, every day that goes by with restrictions on family time, reduced availability of treatment or other services for parents and delays in reunification efforts is a threat to family integrity.

When children are removed from their parents, even when necessary for their safety, and artificial visiting arrangements are

imposed that prevent parents from being parents and children from being children, they become distanced and that can be harmful to parents and children alike. The effects of such distancing shows up in trauma responses, in hopelessness, in destructive behaviors, in increasing needs for clinical interventions, and in repeated cycles of difficulty within families.

As we struggle to develop responses and adapt, we cannot forget the simple fact that children miss their parents, parents miss their children, and that absent aggravated circumstances, they deserve a fair shot to be together or get back together as soon as there is not a safety risk. Further, it is not merely a matter of longing for contact, it is a matter of healthy brain development, maintaining critical bonds, and prevention of trauma that can persist for generations.

We have to commit to doing all within our power to protect parent-child relationships during separations, and to continue to work as diligently as we possibly can to achieve reunification for those families who are not yet together.

We cannot hit pause. We cannot allow a hiatus.

The presence of this virus in the world, alone, is not the safety risk that should keep children and parents apart. We expose children, particularly young children who have difficulty understanding separation and infants, to a less contagious but equally harmful threat when we interrupt the parent-child relationship when explicit safety or health reasons do not call for it.

Likewise, the interruptions and delays that have already taken place in our efforts to serve children and families during the initial weeks of the public health crisis do not grant any of us permission to forgo making reasonable efforts to keep families together or reunite them as fast as safely possible. The reasonableness of our efforts may need adjustment given the circumstances, but we must make them and we can be creative in doing so.

This is a time for us to demonstrate initiative and innovation, not to shrink away. It is not the time to return to old ways that have proven ineffective or harmful.

In taking all needed precautions and heeding public health



Jerry Milner, associate commissioner of the U.S. Children's Bureau.

guidelines, we do not have to succumb to paralysis, indecision or inaction. To do so is to betray our charge and our obligations as administrators, social workers, attorneys, judges and providers. We are people who care for other people and we need to show that — even in uncertain times where we are concerned about our own families and well-being.

We also cannot allow our structural, functional and funding limitations to be

used against families down the line. Time is a child welfare system's biggest challenge and has been since the passage of the **Adoption and Safe Families Act** in 1997 and the advent of reasonable efforts requirements – but it is an even greater challenge now. The timelines in the Act were more the result of negotiation than what we know about the importance of parent-child relationships, recovery and trauma. They do not reflect what we know about treatment and recovery and do not reflect the contextual factors that are directly relevant to successful reunification, such as the availability of quality services and treatment and a family's ability to access services timely and effectively. The decades that have passed and research lessons learned have revealed the timelines as lacking alignment with what many children and families need.

Nonetheless, the 15 out of 22 months deadline continues to loom large. For some families who are nearing a year of separation, they are skating dangerously close to the statutory timelines for filing termination of parental rights petitions. We must be mindful of what is fair and just for parents in these situations. The law provides a tool for circumstances like these, compelling reasons not to file to terminate parental rights. The agency can demonstrate that compelling reasons exist not to file to terminate parental rights, even when the 15/22 month mark has been reached, if a parent is showing progress and needs a bit more time,

a fit and willing relative steps up, or a variety of other changes or circumstances that may exist.

We have to stand on guard and prepare for the aftermath of our current crisis. One, two, three or even 12 months from now, we will continue to deal with the results of the virus and the manner in which it has affected our system. Should restrictions on family time and services continue, a significant amount of time may pass before parents and children are properly served.

Despite our strong preference that all measures be taken to continue in-person family time for children in foster care and their parents and siblings, there will undoubtedly be instances where such family time is not provided. In some instances that may be appropriate due to the presence of the virus in the resource family home or home of the parent. In many more instances, there will be no known safety threat.

Although it pains us greatly to write this, there will be circumstances where children, some as young as infants, may go a significant period of time without seeing their parents as the public health crisis continues. In some instances this may be warranted but in others, it will not. In both instances, the agency must demonstrate that it made reasonable efforts to maintain critical connections and courts must hold them accountable for doing so.

Our challenge is how we in the nation's child welfare systems respond to these situations. It will reveal where our values truly

lie. There will be those who use the crisis to serve their own interests or those of their constituencies. There will be those whose implicit or even explicit biases are drawn out into the light. There will be those who choose to weaponize our systemic shortcomings and use them against parents.



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Child development and
**bonding will be used in
arguments** not to return

**Health and Human Services. Photo:
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children to their parents and to expedite adoptions in instances where families did not have a fair chance. We must be vigilant and prepared to stop this from happening, because justice demands it.

There will also be leaders and individuals who will learn from these difficult times and chart a new course, inspired by this stark reminder of our common humanity. For such leaders, this crisis is an opportunity to reorient our system.

We can demand the flexibility in funding and the array of responses we need to serve children and families. This is a defining moment for us as a system; it has laid threadbare our lack of agility to meet family needs. We cannot allow our shortcomings to be held against families — to do so is the height of injustice and compromises the legitimacy of our system in our own eyes and those of the families we are privileged to serve.

We have an opportunity to rise to the occasion and demonstrate new ways of serving families — we can be proactive in finding solutions.

We cannot allow ourselves to repeat the mistakes of the past, where sometimes well intended but deeply misguided efforts to help children had the opposite effect. We cannot allow the coronavirus to serve as a modern-day orphan train that leads to the redistribution of other people's children.

Every day that we do not maintain connections between children in care and their parents and siblings is a source of trauma. We have to keep this in the forefront of our minds in the days, weeks and months ahead and use it to guide our actions. To lose sight of this is a moral and ethical failing. It is an injustice.

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