

HOPE'S BOY:

A Memoir

ANDREW BRIDGE

(Hyperion, 2008, 206 pp.)

REVIEW ESSAY BY MYRNA S. RAEDER*

Hope's Boy is the heartrending memoir of Andrew Bridge, called Andy¹ in his youth, who spent eleven years in Los Angeles foster care, ultimately becoming a legal advocate for those who lack his remarkable resiliency, self confidence, intelligence, luck, and belief that his mother truly loved him. The book's cover shows a fair-haired child who would stand out in today's overwhelmingly minority Los Angeles foster care population. He begins his account in the early 1970s when he is only seven years old and taken into foster care on a North Hollywood street because of his mother's neglect, which stemmed from her mental breakdowns that ultimately led to her long-term institutionalization. A social

* Professor of law, Southwestern Law School; currently a member of the Advisory Board of the American Bar Association's Youth at Risk Commission, having formerly served as a commissioner. She is also a member of the ABA Criminal Justice Section's Juvenile Justice Standards Committee that is drafting standards concerning the intersection of juvenile justice with other service providers such as foster care, education, and mental health agencies.

¹ I refer to the author as Andy when discussing his memories as a youth, and as Bridge when discussing what he has written or events that occurred when he was an adult.

worker took him to MacLaren Hall, a place that reeks of a Dickens novel, and still haunts generations of foster children who had the misfortune of being housed there until its closure in 2003. During his stay Andy became mute and he suffered from nightmares and nervous habits long after he left. He was finally moved when the staff belatedly noticed that Andy had become totally withdrawn. By that time an untreated bleeding nose had also resulted in an infection that left his nostrils swollen and encrusted with blood. Andy survived this first abject failure of the system designed to keep him safe, but was not sent home.

Instead, his fate, which at first hearing might sound ideal, was to be placed at a foster home with a swimming pool. In reality, he suffered a decade of neglect by a system that left him there in limbo till he aged out at eighteen. Andy was never reunified with Hope, his mother who fought unsuccessfully for his return, or with his grandmother in Chicago. If he had any permanency plan, it did not appear to include adoption. He also had to withstand the intermittent rage and occasional assaultive behavior of a foster mother whose own children also left home on turning eighteen. Indeed, his foster mother's worst emotional abuse may have been her repeated threats that she had already or would call social services to take him back. A "failed placement" could have thrown Andy into a much more dangerous world, and interrupted his schooling, which he early recognized was his path to a better life.

Moreover, the foster home was the only address he knew his mother had during her long absence, and it was her love that sustained him through years of foster care indifference. Ultimately, Andy's remarkable ability to stay calm and comply with his foster mother's unreasonable demands permitted him to obtain the prize that eludes most foster children, an unbroken education that paved the way to his successful graduation from both Wesleyan College and Harvard Law School, as well as to a Fulbright Scholarship. Even his short stint at a large law firm resulted in the firm's arranging for his cost-free health care when he got Hodgkin's disease. With such a compelling narrative, told in a deceptively simple, but powerful manner, it is no wonder that the book appeared on the *Times* best seller list. Even upon rereading, I have not yet made it to the end with dry eyes.

ANDY'S RECOLLECTIONS

Casting the book as a memoir freed Bridge to relate events he witnessed that illustrate the shocking failure of foster care to protect and nurture the children in its care, since his own experiences are in many ways atypical of children who spend most of their youth in out-of-home placements. While Andy faced the isolation and forced separation from his family suffered by all foster children, who like him often try to hide their status, he had a mother who wanted him back, spent relatively little time at MacLaren, did not face multiple placements or interrupted schooling, had no debilitating mental health or substance abuse issues, and did not cross over into delinquency. Thus, the memoir format also allows him to depict the plight of other foster children whom he met while in the system and whose rights he later defended. Bridge recalls his role in a lawsuit against a mental institution in Georgia housing foster youth as a way to flash back to his own experiences. Like MacLaren, mental health services at Eufaula were lacking or deplorable, and suicides were the only way to obtain public attention. Many of the children in Eufaula were diagnosed with “conduct disorder,” which Bridge points out masks childhood minor behaviors that result in institutionalization only because they were unwanted, or hid uncomfortable truths like sexual abuse that parents did not want to acknowledge. Institutionalization either initiated their mental health problems or magnified existing disabilities.

The memoir informs us that the way to survive as a foster youth is to comply with all requests regardless of how trivial or unreasonable, attempt to please everyone, and hide any bonds to absent parents. Sadly, this sounds like a formula designed to rob them of their childhood, as well as of their creativity, self confidence and drive to succeed. Somehow Andy's love of his mother and his unwavering belief that she loved him gave him the strength to play the game without losing himself. Thus, even at age seven, he was able to withstand the utter depersonalization of a system that took his few possessions without telling him why and subjected him to a total lack of privacy as he stood in a naked group of boys waiting to be taken to shower. Bridge calls MacLaren “a violent dumping ground,” randomly mixing children of varying ages, some of whom had been severely abused, or suffered from significant mental health or

behavioral problems, and acted out violently or through their sexual promiscuity. This was not a fit environment for any child, let alone for someone who had literally been ripped from his mother's arms the previous day. He recounts an early experience at MacLaren when he froze at a staff member's command and was placed in a dark windowless room for two days. The Hall is depicted as resembling a prison, down to its armed guards who supervised the children whose only offense was being born to parents who did not or could not care for them.

The low expectations of the system were immediately evident. They were schooled onsite and traveled to court in buses belonging to the county jail that had blackened windows. Onlookers seeing them disembark might have easily assumed they were children we should fear, rather than children we were responsible to protect. As bad as Andy's experiences were at MacLaren, he was fortunate not to be returned there like so many children who spent their youth shuffling from MacLaren to failed placements at foster homes, to group homes, and back to MacLaren or psychiatric facilities. Predictably, many cross over and become status offenders after they bolt from intolerable placements or become truant, then enter the delinquency system after they engage in theft or prostitution or other criminal behavior while living on the street. Jason, one of the few children in foster care with Andy who is described in any depth, is a boy who Bridge says keeps running away in order to prove, unsuccessfully, that anyone cares enough to want him back. The reaction of their foster mother to Jason's disappearance is to notify the authorities, who issue an arrest warrant. Jason is returned to the foster home because his natural mother calls the police when he predictably goes home. The boy's foster mother's response is to call the social worker to have Jason sent elsewhere.

Bridge knew better than to run, explaining that the price of running was more instability and proof that nobody cared. Moreover, the group homes that now are the last resort of failed placements may hasten the all-too-common pipeline from foster care to homelessness to incarceration. For example, a recent study in Los Angeles revealed the relative risk of delinquency was two and a half times greater for foster care

children who had at least one placement in a group home.² Bridge tells about boys from a group home who pushed back at a bully who taunted them when they arrived at school. The principal refused to let the group home students back after the parents of the bully threatened to sue. In such situations, it would not be uncommon for group home children to be charged with assault in delinquency court, essentially requiring them to prove they acted in self defense. In fact, acting out within the group or foster home is easily characterized as a crime. A similar incident among family members would likely result in a time-out, but would not involve outside agencies. Bridge paints a world of rules that if broken by foster children can result in life-altering consequences. A time-out at home is not the same as a time-out at MacLaren, which could last hours or days, or threats by foster parents to send them back.

Andy's first court experience is presented as almost surreal. His recollections included being dumped in court from a corridor where prisoners lingered; seeing his mother in the spectator section; meeting his lawyer there for the first time; and hearing the attorney for the county request his continued detention in light of his mother's "resistance" to child services. He saw his mother remain mute without any attorney, and his own attorney offer no objection or evidence to challenge the county's wishes or even to ask Andy any questions. He also felt the judge's apparent indifference during the brief five-minute hearing that ultimately determined the course of his youth. Even more distressing, he was not present at his eighteen-month hearing where he was redefined as a permanent foster child. Bridge writes that only after he became a permanent foster child was his mother permitted to visit him once a month for one hour. Deconstructed, this suggests he was not allowed to see her from the time he was seven until he was nine years old, virtually a lifetime for a young child who loved his mother.

Bridge highlights the lack of camaraderie between himself and other foster children his age, each with their own secrets, and afraid that each would expose the other at school as a foster child. Numerous children passed through his foster home and remained permanently in a

² Joseph P. Ryan, *et al.*, *Juvenile Delinquency In Child Welfare: Investigating Group Home Effects*, 30 CHILDREN & YOUTH SERVICES REV. 1088 (Sep. 2008).

scrapbook, but Andy was the only one who did not leave. Other foster children he mentions include a fifteen-year-old pregnant girl for whom the county requested an abortion; a girl in a body cast who had been raped and beaten by her father, other girls who were molested, including one whose screams and threats to mutilate herself frightened him. He indicates that some of the girls encouraged him to read. His descriptions of these children are vague, as if his protective mechanisms kept him from getting too close to them, or his memories are too painful to recall in detail.

Ironically, he describes his foster mother as “unpredictable” as his natural mother, as well as given to rages, threats, and at least one physical confrontation. Unlike Hope, his foster mother made no attempt to love him, let alone to demonstrate any compassion for his plight despite or maybe because of her own youth spent mainly in detention and displaced persons camps in Germany. These experiences led to her willingness to house children whose childhoods resembled her own. While her primary motive does not appear to be receipt of monthly foster care checks, Bridge alludes to those payments throughout the book as a constant reminder that the system is not dependent on love. He explains that even if his social worker believed that his foster mother’s behavior was inappropriate, his alternatives seemed worse, a sad but undoubtedly true analysis. Moreover, the social workers whose job it was to protect him were virtually absent from his youth. His minimal contact with a parade of social workers diminished from several times a year to twice a year to annual visits to virtually no visits by high school, which meant that any truly dangerous behavior in his foster placement could easily have been missed.

As with others who thrive after foster care, his success was based on finding adults who made a difference in his life. For Andy, a fifth grade teacher later suggested he should be tested, which resulted in his being switched from a “delayed” to an enriched curriculum, making school the focal point of his youth. He also connected with a high school teacher, and was even elected student body president. Andy was solely responsible for all of his college preparation. He received no helpful guidance from his school counselor, whose comments indicate no clue about his

foster child status. More chilling, he was again confronted with the low expectation of his latest social worker, who, upon learning from his foster mother that he was applying to colleges on the East Coast, suggested he should apply to more appropriate schools and recommended an unaccredited community college. It is incredible that he was self-confident enough to tear up the community college application and continue his own school search. Yet, Bridge admits he never wrote about his foster care experience in his college essays. Instead, his essays came from his high school classes taken with a teacher who inspired him. His diligence was rewarded when Wesleyan offered him a scholarship. Interestingly, that school did not interview him. He suggests this was a boon, given his recounting of a disastrous interview with a wealthy alumnus of another college whose elitism permeated the conversation even before Andy's foster care connection was revealed. Bridge indicates he had saved \$300 from working during summers, from which he paid for his airfare. He briefly alludes to his early college years as difficult. In fact, ironically, with nowhere else to go, and no established financial or "emotional" network, he initially returned to his foster home during his first summer in college. By law school he had found his voice, and his admission essay was about how people accept injustices as part of life, rather than as a result of choices.

The memoir's unanswered question is whether Hope could have won Andy back. Bridge admits she was "selfish, impulsive, and irresponsible." Was this behavior a manifestation of her mental health issues, or a reflection of her youth, poverty and bad choices? In a telling remark, Bridge attributes greater incidences of foster care to the problem of poor, single mothers and their frightened children who go home when they age out. It is well recognized that "[t]he probability of a child being reported as abused or neglected increases when families live in poverty" and receive public assistance.³ Hope had married young and left school in the tenth grade. She and her husband went on a spree passing bad checks and wound up in state prison in California. Andy, who was then four years

³ LISA K. FOSTER, CALIFORNIA RESEARCH BUREAU, *FOSTER CARE FUNDAMENTALS: AN OVERVIEW OF CALIFORNIA'S FOSTER CARE SYSTEM 3* (Dec. 2001) (hereinafter *FOSTER CARE FUNDAMENTALS*).

old, was sent to live with his grandmother in Chicago. When Hope was released she demanded his grandmother send Andy to her in Los Angeles. She ultimately kept her son for only two years before her mental illness completely sidetracked her ability to keep him safe.

During their time together in Los Angeles, Hope let Andy beg for food, his schooling appears uneven, he witnessed his mother being brutalized, and he was beaten by her boyfriend. At one point when his mother had no money, she and a female friend had him help them burglarize a home. He was nearly caught in the unsuccessful attempt and could have been injured by the dogs that alerted the homeowner. If caught, Andy's introduction to the system could have been in delinquency, rather than dependency court, though given his young age, and his mother's involvement in the crime, he still might have been referred to dependency court.

His father never was part of Andy's life, and Hope's eye was permanently scarred from a glass he threw at her face. Hope always worried that after their divorce her ex-husband would come back to "steal" Andy. Ironically, much of Andy's strength derived from her constantly warning him about people who were out to separate them, leaving him with the indelible imprint that he was loved and that she would not willingly abandon him. This belief that someone loved them was lacking in the many other children who cycled through his foster home and whom he saw in group home settings. Yet, Andy's mother's mental illness sabotaged any chance that she could maintain steady work and her fear of his being stolen escalated until she made him sleep in a closet. Ultimately, he writes that he, too, became afraid of her voices, and let the social worker take him away so he could be safe.

While Hope is eventually allowed monthly one-hour visits where she is treated with hostility by Andy's foster mother, she soon totally disappears for most of Andy's youth. We eventually learn that her absence was not because she abandoned him, but was due to her indefinite confinement in Arizona State Hospital. She leaves Arizona, but is ultimately reinstitutionalized in California where she convinces a psychiatrist to call the number where Andy still resides some seven years later. In his typically understated writing style we are told how he then travels 95

miles by bus to see her. Hope tells him she did the best she could; but, as he recognizes, it was not good enough. Bridge's bond to his mother remains strong, and he writes that he continues to visit her in the group home where she now resides.

As an adult Bridge meets a former social worker who offhandedly tells him how close Hope was to reclaiming him before he became a permanent foster child, something he never knew. Given Hope's mental health history, it is unlikely that she would have been able to keep him very long, but she might have contacted Andy's grandmother as she had done when she was incarcerated in order to keep him from being thrust back into foster care. Moreover, while we are left to wonder why, it was not until Andy was in seventh grade that he heard from his grandmother. Undoubtedly, his grandmother still cared, because, though quite poor, she saved enough money to travel to Los Angeles to see him when he was in the ninth grade. At that point, she, like Andy, hadn't heard from Hope in five years. Bridge notes simply that no one from the foster care system discussed his grandmother with him or facilitated their communication. It is also unclear whether any official effort was made to suggest or encourage her to take him back or adopt him. When asked by Bridge as an adult if she had considered claiming him, his grandmother said yes, but assumed he was happy in a big house with a pool, an unstated comparison to her age and poverty. Ironically, this mimics what many people believe, that placing children in financially secure settings is more important than with family members who love them.

The memoir's power derives in part from avoiding overstatement and polemics. Bridge just tells us stories: his own, of the children he saw in his youth, and of the children he represented as an advocate. These poignant narratives appeal not only to our emotions, but to our humanity, and convincingly demonstrate that foster care reform should be a national priority. He does not lecture us or parade a host of statistics to reinforce this unstated theme, but rather lets his recollections speak for themselves. He does, however, mention that historically, Los Angeles has had one of the largest, most violent foster care systems, where dozens of children have died and hundreds have disappeared. Bridge also cites the shocking statistics that no one disputes — that nationally, the majority

of foster children are semi-literate and never graduate from high school, and only 3 to 10% graduate from college. The book also offers a persuasive argument that mentoring of foster youth is a responsibility that all of us share. While not every foster child is destined to become another Andrew Bridge, with nurturing, many fewer of those who age out would be on track to populate our shelters, prisons, and mental institutions. It is frightening to contemplate an alternative universe where Andy might have remained in the delayed school track, unable to shine because no one noticed his potential.

THE MISSING POLICY AND LEGAL HISTORY CONTEXT

In the context of the memoir, it is not surprising that the book does not provide any nuanced policy context. Similarly, other than a few allusions to licensing of foster homes, and the role of lawyers at court hearings, the legal aspects of foster care are missing. Bridge also briefly mentions some of his later accomplishments: as executive director of the Alliance for Children's Rights, he sued the County of Los Angeles for placing children in foster care, then failing to visit them; his organization facilitated adoptions by volunteers when the County of Los Angeles failed to finalize paperwork; he argued that children living in group homes should be allowed to attend regular public school rather than be taught on-site; and he fought the use of foster care in psychiatric facilities for children who did not require institutionalization.

The remainder of this review will focus on the equally powerful story of the changes in the policies and laws concerning foster children in California during the past forty years, highlighting some of its successes and failures. While shocking foster care stories still abound in California and elsewhere, particularly in Los Angeles where Andy resided, today the rights of foster children are firmly established.⁴ In addition, many of the pervasive indignities that constantly assaulted their sense of self are no longer lawful, such as restrictions on the ability of foster children

⁴ See Cal Welfare & Institutions Code § 16001.9.

to engage in sports and after-school activities.⁵ Finally, new federal and state initiatives now target families before children are removed, concentrate on reducing the number of home and school placements for children in foster care and providing necessary mental health services, as well as facilitating adoptions, ensuring housing for children who age out of the system, and offering college support. What remains unclear is the public's willingness not only to appropriately fund these initiatives, but also to support them, since individual success is often dependent on mentoring.

FOSTER CARE: 1970 TO THE PRESENT

Generally, child welfare policy has fluctuated widely over how to balance safety concerns against family reunification when determining whether to remove children from their parents and when to return them. In the modern era, foster care began to rise dramatically in the 1960s, coinciding with other indicators of family disintegration, including higher rates of divorce and single parenting, increased drug usage, and higher unemployment rates.⁶ The federal government began to fund foster care in 1961, and child abuse awareness increased notably after 1962 with the identification of the battered child syndrome. Most significantly, Congress enacted the Child Abuse Prevention and Treatment Act (CAPTA) in 1974, which required states to keep statistics about child abuse and neglect if they wanted federal funding.

Thus, Andy entered a foster care system on the cusp of major change. When he became a foster youth in the early 1970s, California had neither

⁵ See, e.g., *Id.* at § 362.05.

⁶ This history is based on FOSTER CARE FUNDAMENTALS, *supra* note 3 at Appendix 3; CALIFORNIA CHILD WELFARE SERVICES, ELEVEN-COUNTY PILOT PROJECT EVALUATION REPORT, Introduction and Background (Feb. 2008); CALIFORNIA BLUE RIBBON COMMISSION ON CHILDREN IN FOSTER CARE, ADMINISTRATIVE OFFICE OF THE COURTS, FOSTERING A NEW FUTURE FOR CALIFORNIA'S CHILDREN: ENSURING EVERY CHILD A SAFE, SECURE, AND PERMANENT HOME FINAL REPORT AND ACTION PLAN, Appendix J (May 2009) (hereinafter BLUE RIBBON REPORT); and DIANE F. REED & KATE KARPILOW, UNDERSTANDING THE CHILD WELFARE SYSTEM IN CALIFORNIA: A PRIMER FOR SERVICE PROVIDERS AND POLICYMAKERS (2d ed., June 2009) (hereinafter CHILD WELFARE PRIMER).

a high level Children's Service Bureau, nor a standing Children's Committee in the state Legislature, let alone a state ombudsman. Indeed, because California did not even have viable detailed statewide foster care information in 1972, a random state study of 533 cases was undertaken that found that 39% of the children were in the system for more than five years, and for those for whom length and number of placements were known, almost 25% had been in their current facility for five years or longer and 64% had been in two or more facilities.⁷ Parents visited the children in the study monthly in less than 20% of the cases. Unlike today, half of the children in the study were Caucasian. The total number of California foster children in 1972 was about 34,000, nearly double the number in 1964,⁸ but this was only a portent of what was to come. Nationally, there was also a sharp increase in the foster care population from approximately 300,000 between 1962 and 1972, to over 500,000 by 1977.⁹

By 1974, there were nearly 56,000 California foster children,¹⁰ and a 1976 report explained that California foster children were primarily children of the poor, often from single parent families, with half of foster care children placed there voluntarily by parents without formal proceedings.¹¹ Safety trumped reunification during that timeframe to such an extent that it spawned a movement favoring family preservation and permanency planning which resulted in Congress passing the federal Adoption Assistance and Child Welfare Act in 1980, followed by California's conforming legislation, Senate Bill 14 in 1982. After initial declines in the number of foster children, competing national trends already mentioned derailed further gains. For example, a 1990 report noted that estimates ranged from 15,000 to 72,000 drug or alcohol exposed babies

⁷ CALIFORNIA STATE SOCIAL WELFARE BOARD, REPORT ON FOSTER CARE, CHILDREN WAITING 7-9 (1972) (hereinafter CHILDREN WAITING).

⁸ *Id.* at 6.

⁹ FOSTER CARE FUNDAMENTALS, *supra* note 3, at 42.

¹⁰ CHILDREN'S RESEARCH INSITUTE OF CALIFORNIA, REVIEW, SYNTHESIS AND RECOMMENDATIONS OF SEVEN FOSTER CARE STUDIES IN CALIFORNIA II (Dec. 1974).

¹¹ JESSICA S. PERS, GOVERNMENT AS PARENT, ADMINISTERING FOSTER CARE IN CALIFORNIA 15 (1976).

being born in California each year,¹² which resulted in many more infants being brought into the system. California's foster youth population rose from 39,000 in 1983 to 65,000 by 1988 and nearly 80,000 by August 1990.¹³ Rates of admissions also increased from the early 1980s to the late 1990s when they finally stabilized.¹⁴ In part, because California is among a minority of states employing a countywide system for providing services, until federal requirements were imposed in the 1990s, the accuracy of the earlier statistics is problematic. Similarly, this structure complicates efforts at uniformity when implementing federal and state legislation.

Demographic changes also became pronounced. Not only would white children like Andy not have been unusual when he entered foster care in the early 1970s, even in 1983 they were still nearly half the foster care population. But by 1990 they comprised only 38%. In contrast African-American children increased to 39% of the 1990 foster children, despite representing only 8% of California's children.¹⁵ This obvious disproportionality of minorities was mirrored nationally, and remains a continuing nationwide phenomenon that calls into question the fairness of the system.¹⁶

By 1997, horror stories abounded about the physical and sexual abuse of children in foster care whose chances for permanency via reunification or adoption were slim. Again, Congress took the lead and enacted the Adoption and Safe Families Act (ASFA), but the emphasis reverted to safety over reunification. ASFA set timelines that encouraged termination of parental rights for children who had spent 15 of the last 22 months in non-kinship foster care, on the rationale that adoptions would

¹² *Id.* at 5.

¹³ CALIFORNIA SENATE OFFICE OF RESEARCH, TACKLING CALIFORNIA'S DEMAND FOR FOSTER CARE 3 (Dec. 1990).

¹⁴ FOSTER CARE FUNDAMENTALS, *supra* note 3, at 4.

¹⁵ *Id.* at 4.

¹⁶ See generally CENTER FOR JUVENILE JUSTICE REFORM & CHAPIN HALL CENTER FOR CHILDREN, RACIAL AND ETHNIC DISPARITY AND DISPROPORTIONALITY IN CHILD WELFARE AND JUVENILE JUSTICE: A COMPENDIUM (Jan. 2009); see also Aug. 2008 American Bar Association Policy On Addressing Racial Disparities In The Child Welfare System, available at <http://www.abanet.org/youthatrisk/youthpolicies/home.shtml>.

follow. State funding became dependent on following federal timelines and developing outcome measures. By 2001, there were 100,000 foster children in California, including 50,000 in kinship care.¹⁷ In 2002, California underwent an ASFA review and was found to be out of substantial conformity for all seven federal outcomes and 5 of the 7 systemic factors assessed.¹⁸ A Comprehensive Program Improvement Plan (PIP) was later submitted to address these insufficiencies. In 2008, California was subjected to a second ASFA review and a new PIP was submitted, which is awaiting federal evaluation.

While reunification is the ultimate goal of California foster care,¹⁹ even today, the 75,000 foster children in California exceed the population in any other state, and nearly half are in care more than two years.²⁰ Indeed, for those children who aged out of foster care in Los Angeles, the percentage of those who were in care for three years or longer has ranged from 27% to almost 58%.²¹ In 2008 this declined to 44%, but this indicates that an appallingly high percentage of children still never achieve permanency. The system is still tilted toward safety, although for more than a decade the child welfare field has been emphasizing prevention and early intervention to avoid out of home placements.²² However, funding restrictions often work at crosscurrents to best practices. Perversely, federal and state financing structures have often “created a financial incentive to place and keep children in foster care” because they provided money for long-term maintenance, but capped services to families.²³

Assessing the actual reach of the foster care system is often confounded by whether kinship placements are counted. For example, one report noted that while the rate of children in foster care grew from fewer than 5 per thousand in 1983 to over 11 per thousand in 1997, the

¹⁷ FOSTER CARE FUNDAMENTALS, *supra* note 3, at 1.

¹⁸ See CHILD WELFARE PRIMER, *supra* note 6.

¹⁹ In re Nolan W., 45 Cal.4th 1217, 1228, 203 P.3d 454, 460, 91 Cal.Rptr.3d 140, 148 (Cal. 2009).

²⁰ BLUE RIBBON REPORT, *supra* note 6, at 3.

²¹ Interval table by County showing Measure C3.3 from cssr.berkeley.edu.

²² See, e.g., FOSTER CARE FUNDAMENTALS, *supra* note 3, at 35.

²³ *Id.* at 5, 34.

foster care rate had declined since then. However, it attributed this to transfer of the kinship program out of foster care.²⁴ Similarly, from 1998 to 2008, the number of children in out-of-home placement decreased by 37%, from 108,057 to 68,475, primarily due to the large number of children who exited the child welfare system to stay with relatives.²⁵ Legislative changes to kinship care that expanded eligibility and provided more resources²⁶ significantly benefit children whose lives have been less disrupted by such placements, but downplaying the overall growth of the foster care system may result in the general public's discounting the need for foster care reform.

A few categories of foster youth who have not yet drawn significant attention are those who are homosexual or transgendered, as well as those who are pregnant or parenting. As to the former, it has become clear that many such youths wind up in the foster care system when their parents reject them, and then face discrimination from foster parents.²⁷ Recently, the American Bar Association has adopted a policy concerning the Safety of Lesbian, Gay, Bisexual, and Transgender Foster Youth.²⁸ Similarly, girls who are pregnant or give birth are another population of foster youths who are only recently being noticed. Unlike the pregnant girl mentioned by Bridge who received an abortion, a recent Chicago study of data from a teen parenting services network targeting foster youths found that 90% of the teen pregnancies result in live births, and 30% of foster youths become pregnant a second time. While the California experience has not been studied, the Chicago experience is likely to be similar to that of Los Angeles, since both are major urban centers. Of the more than 2,300 females included, 86% were African American, 70% had been in care for a total of seven years or more, 39% had six or more placements; one third suffered either mental retardation or needed

²⁴ *Id.* at 24.

²⁵ See CHILD WELFARE PRIMER, *supra* note 6, at 23.

²⁶ See, e.g., AB 1193 (Kinship Support Services Program enacted in 1997), and SB 1901 (Kinship Guardianship Assistance Payment Program, enacted in 1998).

²⁷ See generally MIMI LAVER AND ANDREA KHOURY, OPENING DOORS FOR LG-BTQ YOUTH IN FOSTER CARE: A GUIDE FOR LAWYERS AND JUDGES (2008).

²⁸ ABA Policy adopted August 2007, available at <http://www.abanet.org/youthatrisk/youthpolicies/past.shtml>.

mental health services; and nearly one third gave birth by age sixteen. In addition, 22% either had no prenatal care or did not begin until their third trimester, and 22% of the young mothers were investigated for child abuse or neglect.²⁹ Less than half exited the network with GEDs or high school diplomas. This stark reminder that foster children may give birth to children of their own who either live with them in foster care, or become otherwise subject to the foster care system provides a warning that unless these young mothers leave the system with marketable skills and a decent education, we are destined to witness a culture of intergenerational foster care.

CROSS-OVER YOUTHS

When Andy entered foster care, the relationship between foster care and delinquency had not been addressed by the Legislature, although foster care children have long been recognized as at risk for delinquency. As previously mentioned, the pipeline to adult incarceration begins for many children when they enter foster care as abused and neglected. It continues when they become status offenders because they become truant or run away from home or placements, often because of physical and sexual abuse. The next step is delinquency, when they live on the streets, and engage in prostitution, theft, substance abuse, or commit other crimes. Their homelessness becomes entrenched when they age out of foster care. Ultimately, they are incarcerated or institutionalized as adults, because along the way they never obtained the tools or mental health services necessary to become productive citizens.

Preventing this bleak future is a paramount goal of foster care reformers.³⁰ California Welfare and Institutions Code section 241.1 provides that children are to receive services in the most appropriate and least restrictive system. Unlike other states that recognize dual status

²⁹ AMY DWORSKY & JAN DECOURSEY, *PREGNANT AND PARENTING FOSTER YOUTH: THEIR NEEDS, THEIR EXPERIENCES* (2009), available at http://www.chapinhall.org/sites/default/files/Pregnant_Foster_Youth_final_081109.pdf.

³⁰ See, e.g., G. SIEGEL & R. LORD, *NATIONAL CENTER ON JUVENILE JUSTICE, WHEN SYSTEMS COLLIDE: IMPROVING COURT PRACTICES AND PROGRAMS IN DUAL JURISDICTION CASES* (2004).

for youths who fall within the jurisdiction of both dependency and delinquency courts, a finding of delinquency typically meant that the dependency case would be closed. However, when delinquency court jurisdiction ended, children would find themselves without dependency services. Delinquent children also may be abused at home, whether or not they previously have been adjudicated dependent. Since 1990, California law has addressed “cross-over” youth status.³¹

However, the protocol detailing the interrelationship of the probation and protective services departments in evaluating such children was not implemented in Los Angeles until 1997. Thus, before that time there was no coordination, resulting in some children unnecessarily being made wards of the delinquency court, which terminated their dependency status. Coordination led to a reduction of dependent youths becoming wards of the delinquency court. Recognized gaps in services due to shifting responsibilities between probation officers and social workers led to enactment of AB 129 in 2004 so that counties can implement a dual status system that permits continuity of services and collaboration by the respective agencies. Los Angeles has created a pilot project at one of its delinquency courts, using a multidisciplinary team to assess and enhance services to this population.

LEGISLATIVE CHANGES AFFECTING INCARCERATED AND INSTITUTIONALIZED PARENTS

Like Andy, many foster children have parents who are or have been incarcerated³² or institutionalized. In fact, today this is a much more common phenomenon than in the early 1970s, due to burgeoning prison populations that began with the inception of the war on drugs in the 1980s. Nationally, the number of children with a mother in prison has

³¹ See generally Judge Michael Nash & Shay Bilchik, *Child Welfare and Juvenile Justice — Two Sides of the Same Coin*, JUVENILE AND FAMILY JUSTICE TODAY (Winter 2009).

³² See generally CHRISTOPHER J. MUMOLA, BUREAU JUST. STAT., INCARCERATED PARENTS AND THEIR CHILDREN 1 (Aug. 2000), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/iptc.pdf>.

more than doubled since 1991, and the number of children with incarcerated fathers has grown more than 77%.³³ Andy was simply picked up on the street by a deputy sheriff. It is estimated that children are present in about 20% of the arrests of their mothers, which can be traumatic, particularly when there is no protocol about how to treat them.³⁴ Yet, it can be even more traumatic if a young child is left at home and no responsible parent returns,³⁵ which is a distinct possibility since, nationally, more than 40% of state female prisoners with children reported living with them in single parent households.³⁶ In September 2006, Governor Schwarzenegger signed Assembly Bill 1942, which encourages law enforcement and county child welfare agencies to develop joint protocols to ensure the safety and wellbeing of children at the time of their parent's arrest. Los Angeles now has a social worker available at each police station.³⁷

Once a parent is incarcerated, difficulties concerning children mount. A child need not wind up in foster care if dependency proceedings have not previously been instituted and other arrangements can be made. However, the lack of a support network, particularly for single mothers, may hinder alternative placements. Simple things like placing a child in school or obtaining medical treatment can also become a

³³ LAUREN E. GLAZE AND LAURA M. MARUSCHAK, BUREAU JUST. STAT., PARENTS IN PRISON AND THEIR MINOR CHILDREN 2 (Aug. 2008), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/pptmc.pdf>.

³⁴ See CLARE M. NOLAN, CAL. RESEARCH BUREAU, CHILDREN OF ARRESTED PARENTS, STRATEGIES TO IMPROVE THEIR SAFETY AND WELL-BEING (July 2003), available at www.library.ca.gov/crb/03/11/03-011.pdf; Myrna S. Raeder, *Primer on Gender-Related Issues that Affect Female Offenders*, 20 CRIM. JUST. 4 (2005).

³⁵ See, e.g., CHARLENE WEAR SIMMONS, CAL. RES. BUREAU, CALIFORNIA LAW AND THE CHILDREN OF PRISONERS 1, 6 (Feb. 2003), available at www.library.ca.gov/crb/03/03/03-003.pdf.

³⁶ Glaze, *supra* note 33, at 5.

³⁷ See GINNY PUDDEFOOT & LISA K. FOSTER, CAL. RESEARCH BUREAU, KEEPING CHILDREN SAFE WHEN THEIR PARENTS ARE ARRESTED: LOCAL APPROACHES THAT WORK (July, 2007), available at <http://www.library.ca.gov/crb/07/07-006.pdf>; see also CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING, POST GUIDELINES FOR CHILD SAFETY WHEN A CUSTODIAL PARENT OR GUARDIAN IS ARRESTED (April 2008), available at http://www.post.ca.gov/Publications/pdf/child_safety.pdf.

nightmare. California's Family Code section 6550 now authorizes a caretaker declaration to permit eligible relatives to take care of such matters without requiring a parental signature. If, as is more typical, the child is already in foster care or placed there due to parental incarceration, the ASFA timelines play havoc with reunification. As a result, Assembly Bill 2070 was recently enacted to facilitate reunification efforts for incarcerated parents by extending the timeframe during which services may be provided and explicitly requiring consideration of the circumstances of incarcerated or institutionalized parents in extending services.

Today, AB 2070 ensures that mothers such as Hope will only be denied reunification services when "competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within the time limits." A working group in Los Angeles Dependency Court is currently exploring ways to reduce barriers to reunification such as difficulties in appearing at hearings, and impediments to receiving visits in jail or prison, as well as other reunification services. AB 2070 also makes it more likely for siblings to be placed together, though this still raises practical difficulties for large families, since it is not uncommon for nearly half of the children in foster care to have at least two siblings who are also in care.³⁸

Under the present ASFA legal framework, it is hard to imagine a complete failure of permanency planning such as Andy experienced. A reunification plan must be created, and a permanency hearing would be held twelve months after a child older than three is removed from a home. However, even if parental rights are eventually terminated, this does not ensure that foster children will be adopted, particularly the older children. At a minimum, today's greater emphasis on kinship care would have resulted in attempts to contact Andy's grandmother when he was first taken into foster care. Her worries about being able to support Andy would have been lessened by recent laws increasing kinship assistance, though the exact level of support would have been complicated by her living outside California. Even if she were not willing to adopt Andy, legal guardian arrangements are currently encouraged for relatives.

³⁸ FOSTER CARE FUNDAMENTALS, *supra* note 3, at 17.

THE ROLE OF LAWYERS IN DEPENDENCY COURT

Attitudes about the role of lawyers in dependency court have also changed since Andy attended only one hearing in the early 1970s. A 1976 report discussed the expanding role of counsel for both children and parents, noting that the minor has a right to be represented by counsel, but the court is not required to appoint counsel for indigents if the charges are based on neglect rather than abuse.³⁹ Even to the extent that counties offered legal representation, counsel “usually represents the petitioning agency, and assumes that the child’s interests are identical to the agency’s.”⁴⁰ While Andy was assigned an attorney, his experience at the time was not atypical, even though shocking: no prior communication, no challenge, and no presentation of evidence. Today, many attorneys still only meet children and parents shortly before the hearing, which is little longer than what Andy faced some forty years ago, despite current recommendations that hearings should take thirty to sixty minutes.⁴¹ Similarly, while lawyers for children view their role as representing the child’s interest, much of the legal community expects such lawyers to act like guardians *ad litem* acting in the child’s best interests rather than their stated interests, which is often to return to a less than perfect home.⁴² Since 2008, Assembly Bill 3051 has provided that children over ten must be given the opportunity to attend and speak at hearings that affect their lives. One can still quibble about the chosen age, since Andy was too young to fall within its mandate when he entered the system. However, today it is less likely that he would simply find out second-hand that the court had made him a permanent foster child.

Moreover, in 1978, Los Angeles established the first use of Court Appointed Special Advocates (CASA) who volunteer to act on behalf of

³⁹ Pers, *supra* note 11, at 29-35.

⁴⁰ *Id.* at 29.

⁴¹ BLUE RIBBON REPORT, *supra* note 6, at 14.

⁴² See generally Martin Guggenheim, *A Paradigm for Determining the Role of Counsel for Children*, 64 FORDHAM L. REV. 1399 (1996); *Session 3: Children’s Rights in the Context of Welfare, Dependency, and the Juvenile Court*, 8 U.C. DAVIS J. JUV. L. & POL’Y 267 (2004).

foster children and provide reports to the Court. CASA provides information to the dependency hearing officers making decisions about the child's future. The CASA recruit, train, supervise, and support community volunteers who investigate the circumstances of the child, facilitate services, monitor compliance with the orders of the court, and advocate in the court and in the community for the best interests of the child.⁴³ This is a significant resource that was absent when Andy's status was determined. Even in the pre-ASFA era, CASA might have recognized that Andy had fallen into the cracks of a system after it declared him a permanent foster child.

When Hope stood mute in court without an attorney she, like other parents in California, had no statutory right to counsel in neglect, although due process permitted judges to appoint counsel on a case-by-case basis. There is no indication that Hope knew of this option. In contrast, today she would have a lawyer at the hearing,⁴⁴ so her portrayal as "resistant to social services" could have been challenged. However, as previously discussed, because of her mental health history and Andy's truancy, she would not have been guaranteed to win at a disputed hearing. While neglect, rather than abuse was charged, Hope's caretaking abilities had obvious deficiencies, and fear for a child's safety is a strong motivator to keep children who have entered the foster care system.

Generally, safety concerns get magnified in timeframes when the media highlight cases in which children have been injured or die when not removed from natural parents. This phenomenon is called foster care panic, and presently some foster care reformers have expressed concern that Los Angeles may be facing another panic period.⁴⁵ Even in 1976, one commentator noted that many children who might be able to remain with parents if in-home assistance were provided "are instead plunged into the uncertain and unpredictable foster care system," although "the risks of foster care placement may be as great as the risks of leaving a

⁴³ See generally Cal. Welfare & Institutions Code §§100-109.

⁴⁴ *Id.* at § 317.5.

⁴⁵ See Aug. 2009 Release by National Coalition For Child Protection Reform available at www.nccpr.org/lafor2009vx.pdf.

child with natural parents.”⁴⁶ Yet few complain when children are unnecessarily taken from their homes, even though Los Angeles has had some shocking cases of children being severely injured or killed while in foster care,⁴⁷ a fact briefly referenced in the memoir. Indeed the Little Hoover Commission has observed that Los Angeles County alone has spent over \$12 million to address lawsuits involving children who were neglected, harmed or killed while in foster care.⁴⁸

A significant harm imposed on foster children who suffer emotional distress or post-traumatic stress disorder when separated from their parent is the paucity of mental health services. This problem can be traced back to the deinstitutionalization of mental health services more than thirty years ago which ultimately resulted in a dearth of mental health funding that not only impacted foster children, but their parents like Hope.⁴⁹ Unsatisfactory mental health services for foster children in Los Angeles ultimately spawned litigation in 2002, which resulted in closing MacLaren, as well as what is called the *Katie A.* settlement agreement.⁵⁰ Yet, in what is a persistent theme in foster care reform, despite agreement about the nature of the services needed by the children, and the expectation that funding would be available from the passage of California’s Proposition 63, which was designed to expand mental health services generally, the resources needed to overhaul mental health services for foster children and their families have not yet been forthcoming. In

⁴⁶ Pers, *supra* note 11, at 35.

⁴⁷ See, e.g., JOANNE THACKER SCHNEIDER, CAL. ASSEMBLY OFFICE OF RESEARCH, CALIFORNIA CHILDREN, CALIFORNIA FAMILIES, FOSTER CARE: FRAUGHT WITH DATA GAPS AND INADEQUATE SERVICES 8 (April 1989) (2300 reports of alleged abuse in Los Angeles foster care from 1984 through 1987); see generally Austen L. Parrish, *Avoiding the Mistakes of Terrell R: The Undoing of the California Tort Claims Act and the Move to Absolute Governmental Immunity in Foster Care Placement and Supervision*, 15 STANFORD LAW & POLY REV. 267 (2004); see also SB 39 (mandating public access to records of children who die of abuse or neglect).

⁴⁸ LITTLE HOOVER COMMISSION, STILL IN OUR HANDS: A REVIEW OF EFFORTS TO REFORM FOSTER CARE IN CALIFORNIA (Feb. 2003) (Letter to Governor introducing report).

⁴⁹ See generally Note, Andrew M. Holmes, *Initiative Funding through Targeted Taxes: Proposition 63, Mental Health and the Crossroads of Direct Democracy*, 59 HASTINGS L.J. 195 (2007).

⁵⁰ *Katie A v. Bonta*, CV-02-05662 (C.D. Cal., July 18, 2002).

2005, an expert advisory panel found the state out of compliance with the settlement, and a special master was appointed in 2008 to facilitate resolution of outstanding issues.

THE REPEATED FAILURE TO OBTAIN SYSTEMIC FOSTER CARE REFORM IN CALIFORNIA

California has had no shortage of reports documenting the dark side of foster care and making recommendations to reform the system. Many suggestions in each report mirror those proposed previously by the Little Hoover Commission,⁵¹ and by other governmental agencies or private organizations. The problem has not been lack of understanding, but rather lack of political and public willingness to provide the same resources to foster children that we give to our own children. Nearly forty years ago, a 1972 report by the California State Social Welfare Board recognized that it was essential to offer a full range of services to families in crisis to preclude the need for removal from the home.⁵² Ironically, the report's proclamation that "[m]any children are placed and left in foster care unnecessarily"⁵³ could have been written about Andy who by then had just been declared a permanent foster child and would languish nearly another decade in the system before finally aging out of foster care.

Similarly, in 2006 a letter by the executive director of the Little Hoover Commission noted that the Commission had examined the state's foster care system four times in the past twenty years and the "overwhelming concern remains that there is no one person or agency at the state level with responsibility and authority for children in foster care."⁵⁴ In another telling condemnation of the system, the chair of the 2003 Little Hoover Commission concluded, despite billions spent on foster care, "we

⁵¹ See, e.g., LITTLE HOOVER COMMISSION, NOW IN OUR HANDS: CARING FOR CALIFORNIA'S ABUSED & NEGLECTED CHILDREN (Aug. 1999); LITTLE HOOVER COMMISSION, MENDING OUR BROKEN CHILDREN: RESTRUCTURING FOSTER CARE IN CALIFORNIA (April 1992).

⁵² CHILDREN WAITING, *supra* note 7, at 21.

⁵³ *Id.* at 24.

⁵⁴ Available at <http://www.lhc.ca.gov/studies/activestudies/legsupport/AB2216.pdf>.

continue to fail these children. In many cases the system fails to meet formal standards of care. In some extreme but intolerable cases, the level of care is no better than the abusive homes from which those children were rescued.”⁵⁵ Recurring themes have included the lack of planning, crisis management, fragmentation and funding issues concerning both federal eligibility requirements for funding children in foster care and levels of funding.

Recently, the judicial system has examined its own role in child welfare reform, noting that none of the previous efforts to improve child welfare had focused on the courts. In 2006, Chief Justice Ronald M. George established the California Blue Ribbon Commission on Children in Foster Care. Justice Carlos Moreno has served as its chair, presiding over a multidisciplinary commission charged with the task of recommending how the Court could “improve safety, permanency, well-being, and fairness” for foster children and their families.⁵⁶ The Commission’s comprehensive report was issued in May 2009, and its introduction is entitled, “Our Children Deserve Better.” This echoes the conclusion of previous reports that the “overwhelming consensus” is that the system is broken and needs fixing, not only to better provide for their stay in the system but for their preparation to face a world without family support when they age out of the system.⁵⁷ Not surprisingly, the Blue Ribbon Commission found dependency courts are “overstressed and under-resourced,” with crowded dockets, inadequate information, and high attorney caseloads that “far” exceeded the Judicial Council’s recommended standards. It also noted that cross system information sharing that is critical to appropriate decision-making is hindered by both bureaucratic and privacy concerns, and that judicial rotations are much shorter than the suggested three-year assignments.

The Commission makes sweeping recommendations in four areas: 1) Reasonable efforts to prevent removal and achieve permanency by

⁵⁵ Letter dated Feb. 4, 2003 to the governor, accompanying LITTLE HOOVER COMMISSION, *STILL IN OUR HANDS: A REVIEW OF EFFORTS TO REFORM FOSTER CARE IN CALIFORNIA* (FEB. 2003).

⁵⁶ BLUE RIBBON REPORT, *supra* note 6 (Introduction).

⁵⁷ FOSTER CARE FUNDAMENTALS, *supra* note 3, at 8.

increasing placements with relatives, reducing disproportionate representation of African Americans and American Indians, and providing extended support for transitioning youth; 2) Court reform that includes reducing caseloads of judicial officers, attorneys, and social workers, ensuring children and parents have a voice in court and meaningful hearings, and ensuring adequate training and resources for attorneys, social workers and Court Appointed Special Advocates (CASA); 3) Collaboration among courts and child welfare partners by facilitating data and information exchange, establishing local foster care commissions, and improving Indian child welfare; and 4) Resources and Funding: prioritizing foster care, advocating for flexible funding for child-abuse prevention and services, and expanding educational services. The Judicial Council unanimously accepted the Commission's recommendations, and the Commission now is undertaking an ambitious implementation phase. It is to be hoped that this latest effort at foster care reform will be more successful than previous attempts, and there is reason for cautious optimism due to its timing which coincides with the recent enactment of the federal Fostering Connections to Success Act, legislation that includes funding to benefit youth transitioning out of foster care.

PROVIDING A BETTER FUTURE FOR FOSTER YOUTH

One constant during the past forty years has been the sad reality that many youths who age out are not prepared to make it on their own. Upon turning eighteen, they immediately lose their home and support network, and unlike Andy, most are only semi-literate and without a GED or high school diploma. This problem has persisted over time, with some 5000 youths aging out in California without reunifying each year. To combat the drift to homelessness and unemployment, the Independent Living Program (ILP) was first authorized in 1985 and expanded by the Foster Care Independence Act of 1999 to address housing, education and employment issues facing transitioning youth. The Fostering Connections to Success Act, which becomes effective on October 1, 2010, expands this concept. The federal legislation increases support for kinship care, requires coordination between child welfare and schools to enable

children to have continuity in their education, extends funding to tribal governments, and most significantly provides federal funding for foster children until they reach twenty-one years of age.⁵⁸ States must opt in to this provision, which entails costs. However, doing nothing entails costs associated with the loss of productive members of society who may otherwise become homeless and turn to drugs and crime, ultimately requiring the state to pay for their incarceration. The Blue Ribbon Commission has recommended supporting the opt-in legislation, and one of its action plans is to advocate for its adoption.

Andy's leap from a high school diploma to admission at an East Coast college was truly remarkable in 1981 and, unfortunately, remains the exception, rather than the rule. When Andy graduated from high school, his social worker told him he could get assistance to attend California colleges. Since 1996, additional efforts have been made to provide access to higher education for former California foster children through such initiatives as the Guardian Scholars Program and the Foster Youth Success Initiative.⁵⁹ Andy writes he had \$300 when he aged out, savings from his summer jobs. He does not discuss his finances, other than to indicate that his college scholarship was generous, though he alludes to his taking a job after law school at a large firm as being prompted by his student debt. Current foster care youth have the ability to save more of their funds in a trust, but when they age out they often find themselves being taken advantage of because of their lack of sophistication in handling money.

So far, the college programs have only applied to a fraction of foster care youths, because the underlying issue is how to ensure that they graduate from high school and are adequately prepared for college in the first place. AB 490, which has been in effect since January 2004, sets out general obligations of school and rights of foster youth to ensure they receive an appropriate education.⁶⁰ In Los Angeles County, the Board

⁵⁸ See generally NATIONAL FOSTER CARE COALITION, FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT FREQUENTLY ASKED QUESTIONS ON THE PROVISIONS DESIGNED TO IMPACT YOUTH AND YOUNG ADULTS (June 2009).

⁵⁹ CALIFORNIA COLLEGE PATHWAYS • ANNUAL REPORT 2008 4 (Jan. 2009).

⁶⁰ See generally CALIFORNIA YOUTH EDUCATION TASK FORCE, CALIFORNIA FOSTER CARE EDUCATION LAW FACT SHEETS (3d ed., Oct. 2008), available at <http://www.cfpic.org/children/pdfs/EdLawFactsSheets112408.pdf>.

of Supervisors created the Education Coordinating Council (ECC) in November 2004 to raise the educational achievement of foster and probation youth. The ECC created a blueprint⁶¹ that includes adopting and maintaining high expectations for the children and youth involved in these systems. In other words, even those who succeed may not have been offered any encouragement by social workers or teachers, or like Andy, were actively discouraged from believing they could succeed. To ensure that these children are not left behind, foster care must reinvent itself to mentor the youths in its care, rather than warehouse them. For example, Los Angeles Dependency Court currently has a working group investigating ways to ensure the successful transition of youth and provide a supportive network for California college students who are or were in foster care.

CONCLUSION

Many policy and legislative changes have occurred in the forty years since Andy entered California foster care that benefit children by encouraging placements with relatives, and adoptions and guardianships by relatives or others, and by providing more resources for children who stay in the system. Sadly, many children are still being failed by the foster care system. That their numbers are fewer than before is little consolation to the individuals whose lives cannot easily be reclaimed. However, greater public awareness and new judicial and legislative efforts give cause for cautious optimism. Unlike forty years ago, the failures of foster care are harder to mask today because the federal government now requires evaluation of outcomes, not simply compliance with federal legislation.⁶² In other words, child welfare must demonstrate that its programs are making a difference.

One of the most distressing aspects of Andy's eleven years in foster care was the complete insensitivity of the system to finding him a permanent

⁶¹ ECC BLUEPRINT, EXPECTING MORE: A BLUEPRINT FOR RAISING THE EDUCATIONAL ACHIEVEMENT OF FOSTER AND PROBATION YOUTH (Feb. 2006), available at http://www.educationcoordinatingcouncil.org/Documents/Reports/ECC_Blueprint_12_05/Expecting%20More.pdf.

⁶² FOSTER CARE FUNDAMENTALS, *supra* note 3, at 37.

home, not simply one where he could stay indefinitely. Had he been given even a minimal amount of permanency planning, someone would have realized that his grandmother, although not an ideal caretaker, should have been encouraged to reclaim him. It is heartbreaking to read that she thought he would be happier being placed with strangers in a house with a swimming pool than living with her in impoverished circumstances in Chicago. It is unclear whether child welfare reached out to her at all, or if she understood that even then she might be eligible for kinship care support in Chicago. Given that she did not contact Andy until two years after he entered foster care, it appears that she, like Hope, was kept away until he became a permanent foster child. These are the types of systemic missteps that the Foster Connections to Success Act is intended to eliminate by added kinship support and encouragement of adoptions and guardianships by relatives. While some families cannot and should not be reunified, it is tragic not to reunify families that can be saved. For foster children who cannot be reunified, these initiatives provide more encouragement for other permanency options, and more resources for those who, like Andy, have no choice but to transition from foster care to adulthood. ★