

# **Non-legal advocacy in child protection – a summary of the literature**

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# 1 Introduction

This paper summarises the literature relating to non-legal advocacy for parents in the child protection context. The literature reveals a limited but growing number of small-scale program evaluations that indicate success, suggesting that independent non-legal advocacy affords savings to individuals, service systems and governments, strengthens access to justice and improves professional practice. However, this literature should be treated with caution. The extant literature is based on programs that are ad hoc, contract funded, heavily volunteer-reliant and of varying lifespans. Many studies are intentionally persuasive and appear aimed at securing ongoing funding rather than ensuring independent, unbiased evaluation. Studies reviewed focused on extrinsic benefits to advocacy, such as economic benefits, access to justice and other parent's rights and improving child protection practitioner practice, rather than intrinsic benefits to parents or children.

This summary includes literature from the Anglophone child protection context, predominately the United States, the United Kingdom and Australia. The analysis consisted of a descriptive review of peer-reviewed and grey literature, using journal databases and web searches, followed by reference harvesting. In total, 173 sources of varying relevance were identified and analysed, with 23 included in the final analysis. This paper provides a high-level summary overview of the literature, with a detailed review planned for publication.

## 1.1 Characterising the literature

The overall impression of the literature relating to advocacy programs in the child protection context is that these programs are successful, however, the literature does not always achieve the highest standards of methodological rigour. For example, a Detroit Center for Family Advocacy report claims a 100% success rate in averting entry into the foster care system when working with families prior to removal and a cost-saving of \$500,000 to the out-of-home care system.<sup>1</sup> However, the report does not provide a systematic and rigorous methodology that was followed to reach their conclusions and is authored by the services providing the advocacy program. Similarly, cost-benefit analysis studies found in the literature were sometimes based on generous assumptions, with large-scale savings

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<sup>1</sup> Child Advocacy Law Clinic, *Detroit Center for Family Advocacy* (University of Michigan).

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anticipated despite significant limitations or limited methodological detail.<sup>2</sup> Other studies do have rigorous methodological detail but are not peer-reviewed.<sup>3</sup>

There is no reason to doubt the findings of individual program evaluations. However, where those programs are ad hoc, contract funded, pilot and/or heavily reliant on volunteers, findings may or may not scale up. In addition, caution is advised due to the potential bias that may arise from studies undertaken to secure new or ongoing funding.

## 2 Defining advocacy in the child protection context

In the child protection context, advocacy takes the form of 'liaison with child protection, court, hospital and other professionals on behalf of the parent, attending case meetings, and assisting parents to access public housing and social benefits'.<sup>4</sup> The two principle non-legal models identified are independent or professional advocacy and peer or parent advocacy, with advocacy delivered through legal services,<sup>5</sup> multidisciplinary advocacy services,<sup>6</sup> and generic non-government organisations.<sup>7</sup>

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<sup>2</sup> See, e.g.: Anne Daly, Greg Barrett and Rhiân Williams, *A Cost Benefit Analysis of Australian Independent Disability Advocacy Agencies* (Disability Advocacy Network Australia, 2017) 114.

<sup>3</sup> See, e.g.: Annette Bauer et al, *Investing in Advocacy Interventions for Parents with Learning Disabilities: What Is the Economic Argument?* (PSSRU Discussion Paper No 2860, Personal Social Services Research Unit, 2013); Chris Maylea et al, *Final Evaluation of Independent Family Advocacy and Support (IFAS) Pilot* (Social and Global Studies Centre, RMIT University, 2021) <10.25439/rmt.14661216>.

<sup>4</sup> Susan Collings et al, "‘She Was There If I Needed to Talk or to Try and Get My Point across’: Specialist Advocacy for Parents with Intellectual Disability in the Australian Child Protection System' (2018) 24(2) *Australian Journal of Human Rights* 162.

<sup>5</sup> Tamara Walsh and Heather Douglas, 'Lawyers, Advocacy and Child Protection' (2011) 35(2) *Melbourne University Law Review* 621.

<sup>6</sup> Lucas A Gerber et al, 'Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare' (2019) 102 *Children and Youth Services Review* 42.

<sup>7</sup> Lucy P Jordan, Cheryl Hiu-Kwan Chui and Marty W Forth, 'Child Welfare NGOs in Hong Kong: Does Advocacy Work?' (2020) 63(2) *International Social Work* 177.

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'Non-legal' advocacy focuses on establishing, protecting and maintaining a person's rights and supporting participation in the system and is distinguished from legal advocacy, which is done by lawyers and can include legal advice and court representation. Non-legal advocacy in child protection settings is often provided to, and limited to, specific populations who are overrepresented in the child protection system, including people with intellectual disability and other learning difficulties<sup>8</sup> or First Nations communities.<sup>9</sup>

## 2.1 Independent advocacy

Scourfield defines independent advocacy as advocacy that aims to ameliorate power imbalances, provided from a position of organisational and practice independence.<sup>10</sup> A study by Aktin & Kroese examined the experiences of four independent advocates who supported four parents with intellectual disabilities following their involvement in child protection proceedings in the UK.<sup>11</sup> In that study, independent advocates reported feeling empowered by their independence from the local authority and legal system, as it enabled them to challenge instances of injustice or poor practice observed whilst still supporting parents. Maylea et al. found that the expert knowledge held by professional advocates was highly valued by parents.<sup>12</sup>

## 2.2 Parent/peer advocacy

Parent or peer advocacy is undertaken by parents with their own experience of the child protection system. Tobis et al. conducted an international review of parent advocacy

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<sup>8</sup> See, e.g.: Bauer et al (n 3); Charlotte Atkin and Biza Stenfort Kroese, 'Exploring the Experiences of Independent Advocates and Parents with Intellectual Disabilities, Following Their Involvement in Child Protection Proceedings' (2021) 0(0) *Disability & Society* 1; T Booth, D McConnell and W Booth, 'Temporal Discrimination and Parents with Learning Difficulties in the Child Protection System' (2005) 36(6) *British Journal of Social Work* 997.

<sup>9</sup> Chris Maylea et al (n 3).

<sup>10</sup> Peter Scourfield, *Using Advocacy in Social Work Practice: A Guide for Students and Professionals* (Routledge, 2021).

<sup>11</sup> Atkin and Kroese (n 8).

<sup>12</sup> Chris Maylea et al (n 3).

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programs identifying more than 100 programs worldwide.<sup>13</sup> Programs were predominately found in high-income countries including the United States, England, Ireland, Scotland, Canada, Finland, Norway and Australia and were primarily delivered by non-government organisations. Ivec describes projects of varying lifespans, restrained by insecure funding and run on the passion of committed parents with lived experience.<sup>14</sup>

The literature does reveal some services with ongoing and stable funding, such as a service in New York that employs 50 advocates (consisting of 5 professional staff and 45 trained parent advocates)<sup>15</sup> and a service in Western Australia, where the Family Inclusion Network of Western Australia was funded by the State Government in 2009 to provide dedicated advocacy and support services for parents, described as a 'valuable partner' in providing 'unbiased advocacy'.<sup>16</sup>

### 3 Overarching themes

The literature centres on three distinct but interrelated advantages to the widespread implementation of non-legal advocacy services: economic savings, upholding parents' rights, and the value in improving practitioner practice. Largely absent from the literature is a characterisation of parent's experiences as inherently valuable, with most studies focusing on extrinsic benefits stemming from advocacy.

No studies reviewed identified any significant negative impacts stemming from advocacy.

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<sup>13</sup> David Tobis, Andy Bilson and Isuree Katugampala, *International Review of Parent Advocacy in Child Welfare* (Better Care Network and IPAN, 2020) 166.

<sup>14</sup> Mary Ivec, *A Necessary Engagement: An International Review of Parent and Family Engagement in Child Protection* (Social Action Research Centre Anglicare Tasmania, 1 November 2013).

<sup>15</sup> Tobis, Bilson and Katugampala (n 13).

<sup>16</sup> Sharynne Hamilton and Valerie Ann Braithwaite, *Parents and Family Members Matter: A Charter of Rights and Responsibilities for Parents and Families with Children in the Care of Protection Services in Australia* (School of Regulation and Global Governance, College of Asia and the Pacific, The Australian National University Regnet, 2014)  
<[http://regnet.anu.edu.au/sites/default/files/publications/attachments/2015-05/Occasional%2520Paper\\_22\\_Hamilton\\_Braithwaite\\_0.pdf](http://regnet.anu.edu.au/sites/default/files/publications/attachments/2015-05/Occasional%2520Paper_22_Hamilton_Braithwaite_0.pdf)>.

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### 3.1 The economic case

The child protection system is economically burdensome, with extraordinarily high costs associated with out-of-home care in particular.<sup>17</sup> Daly et al. argue that non-legal advocacy can act as an instantaneous quality control mechanism, which reduces spending on unnecessary and costly interventions.<sup>18</sup> In their Australian study, Daly et al. found that non-legal advocacy in child protection for people with disabilities saved \$3,000 per person assisted per year. This represents a return on investment of \$3.50 per dollar spent on advocacy, a net benefit of approximately \$600 million to Australia between 2017-2027. Similarly, Maylea et al. estimated a return on investment of \$3.52 for each dollar spent, with worst-case assumption modelling resulting in a return on investment of \$1.28 for each dollar spent.

In the United States, a study conducted by Gerber et al. followed 9582 New York families and their 18,288 children and found that an interdisciplinary approach (i.e. a lawyer, social worker advocate and sometimes a parent peer advocate) reduced the length of time children stayed in care by 118 nights, an estimated saving to New York of USD 40 million per year.<sup>19</sup> In the United Kingdom, Bauer et al.'s study of non-legal advocacy for parents with learning disabilities found a return on investment of between GBP 1.20 and GBP 2.40 for every pound spent.<sup>20</sup>

Despite the consistency of these figures, it is necessary to highlight the limitations noted by many studies regarding the difficulties associated with economic evaluations of non-legal advocacy.<sup>21</sup>

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<sup>17</sup> Frank Ainsworth and Patricia Hansen, 'When Is Enough Enough? The Burgeoning Cost of Child Protection Services' (2014) 39(2) *Children Australia* 93.

<sup>18</sup> Daly, Barrett and Williams (n 2).

<sup>19</sup> Gerber et al (n 4).

<sup>20</sup> Bauer et al (n 3).

<sup>21</sup> Ibid.

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## 3.2 Upholding parents' rights

Nearly all authors in the reviewed literature support the notion that the child's rights should be paramount, underpinned by international, national and state-based legal instruments. However, Ainsworth & Hansen contends that this doctrine too readily contributes to the silencing of parents' voices.<sup>22</sup> Discussion in the literature on rights as afforded to parents, centres the State's obligation to provide support and assistance in the family context,<sup>23</sup> the right of parents to contribute to the provision of child protection services and practice,<sup>24</sup> and the right of the parent to respond to the case put before them.<sup>25</sup> Of particular interest, Tobis outlines a code of 15 rights of parents affected by child protection services.<sup>26</sup>

## 3.3 Improving professional practice

It is clear from the literature that tensions and difficulties in parent's experiences of engagement with child protection workers are transnational, multi-casual and remarkably similar regardless of country or point in time.<sup>27</sup> Hamilton notes that parties often operate under crisis conditions<sup>28</sup> against a backdrop of high caseloads, inconsistent and punitive

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<sup>22</sup> Patricia Hansen and Frank Ainsworth, 'Human Rights Abuse in Aspects of Child Protection Practice?' (2009) 44 *Australian Journal of Social Issues* 183.

<sup>23</sup> Øivin Christiansen and Ragnhild Hollekim, 'In-Home Services: A Rights-Based Professional Practice Meets Children's and Families' Needs' in Asgeir Falch-Eriksen and Elisabeth Backe-Hansen (eds), *Human Rights in Child Protection: Implications for Professional Practice and Policy* (Springer International Publishing, 2018) 185.

<sup>24</sup> Frank Ainsworth and John Berger, 'Family Inclusive Child Protection Practice: The History of the Family Inclusion Network and Beyond' (2014) 39(2) *Children Australia* 60.

<sup>25</sup> Hansen and Ainsworth (n 22).

<sup>26</sup> David Tobis, *From Pariahs to Partners: How Parents and Their Allies Changed New York City's Child Welfare System* (Oxford University Press, 2013)  
<<https://oxford.universitypressscholarship.com/10.1093/acprof:oso/9780195099881.001.0001/acprof-9780195099881>>.

<sup>27</sup> Kay Biesel et al (eds), *Errors and Mistakes in Child Protection: International Discourses, Approaches and Strategies* (Bristol University Press, 2020).

<sup>28</sup> Hamilton and Braithwaite (n 16).

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agency practices, inconsistent supervision, and weak organisational support.<sup>29</sup> Collings et al. identified the advocates' role in building parental skills and confidence,<sup>30</sup> and the Parenting Research Centre described advocacy as an effective accountability mechanism for practitioners.<sup>31</sup> Maylea et al. found that some practitioners welcomed this accountability mechanism;<sup>32</sup> however, other literature reveals mixed results as to whether practitioners accept advocates to fill this role.<sup>33</sup>

## 4 Gaps in the literature; parents' and children's perspectives

The intrinsic value of advocacy to the parent is not prioritised in the literature. A study by Tilbury and Ramsay of parent satisfaction with child protection services conducted between 2000 and 2016 found only an average of three studies per year which drew on the parent perspective,<sup>34</sup> signalling a reluctance to engage parents in the broader child protection literature.

The focus on extrinsic factors likely stems from the nature of the extant literature. As most studies aim to promote the benefits of non-legal advocacy in child protection contexts, they focus on benefits likely to appeal to policymakers.

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<sup>29</sup> Sharon Rochelle and Laurie Buonanno, 'Charting the Attitudes of County Child Protection Staff in a Post-Crisis Environment' (2018) 86(C) *Children and Youth Services Review* 166.

<sup>30</sup> Collings et al (n 2).

<sup>31</sup> Parenting Research Centre, 'Positive Powerful Parents' (Report from the Hand in Hand Parent Meeting, Self Advocacy Resource Unit (SARU), Melbourne, 19 September 2018) 13.

<sup>32</sup> Chris Maylea et al (n 3).

<sup>33</sup> Brid Featherstone et al, 'Advocacy for Parents and Carers Involved with Children's Services: Making a Difference to Working in Partnership?' (2011) 16(3) *Child & Family Social Work* 266; Hamilton and Braithwaite (n 16); Teresa Hinton and Julie Hawkins, *Parents in the Child Protection System* (Anglicare Tasmania, 2013).

<sup>34</sup> Clare Tilbury & Sylvia Ramsay, 'A systematic scoping review of parental satisfaction with child protection services' (2018) 66 *Evaluation and Program Planning* 141.

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No studies reviewed focused on children's experiences, although many assumed indirect benefits.<sup>35</sup>

## 5 Conclusion

In summary, the literature is overwhelmingly supportive of the benefits of non-legal advocacy in child protection contexts. Despite this, more research is required to develop an evidence base that is robust, defensible and free from bias. Further research must focus on independent program evaluations conducted by experienced researchers with peer-reviewed methodologies, analysis and results. To enable this research to be conducted rigorously, advocacy programs must be piloted over sufficient periods to demonstrate impact and delivered with sufficient resources to achieve a measurable impact. Further research should also consider the full range of potential benefits and challenges relating to non-legal advocacy, not only outcomes of interest to policymakers. The benefits identified by the extant literature demand further, rigorous investigation.

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<sup>35</sup> See e.g.: Chris Maylea et al (n 3).

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