

## TERMINATION OF PARENTAL RIGHTS IN NEW YORK: WHY SUCH A VARIATION BY COUNTY?

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Termination of parental rights (“TPR”) ends the parent–child relationship through a process governed by state law. As a recent analysis of federal data revealed, TPR rates vary widely by state. In West Virginia, the TPR rate was 283 per 100,000. In New York State, the focus of this article, there were approximately 30 TPRs for every 100,000 children in 2014. Within New York State, TPR rates vary by county. In this exploratory piece, we analyze TPR rates in New York by county, noting discrepancies and seeking possible explanations for these variations, including possible effects of income disparities, single-parent households, poor mental health, binge drinking, and drug addiction. This is an initial exploration only, and is not intended to be a rigorous quantitative study. Rather, our scope arises from what we have noticed from front line practice. It is our hope that researchers will use our exploratory findings for extended analysis, including analysis of TPR data from other states.

### Practitioner’s Key Points:

- In New York State, there are approximately 30 TPRs for every 100,000 children.
- TPR rates vary widely across New York’s counties.
- Possible explanations for high incidence of TPR in certain counties include: income disparities, single-parent households, poor mental health, binge drinking, and drug addiction.
- Our analysis is qualitative, based on our experiences in front line practice.

**Keywords:** *Child Welfare; Termination of Parental Rights; TPR.*

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### I. INTRODUCTION

The family is the basic building block of society<sup>1</sup>; absent thriving families, society suffers. Sadly, there are times when a parent and child must be legally separated. TPR ends the parent–child relationship – not a matter to be taken lightly. While an abuse or neglect proceeding is frequently an initial step in a process that may ultimately result in a TPR, that result is not a foregone conclusion. Following a TPR, a parent has no right to be notified of or consent to legal proceedings which affect the disposition of the child, including issues regarding custody, guardianship, adoption, health, education or assets.

In determining which parents are at greatest risk for termination of rights, one factor may be simple geography, according to a recent Associated Press analysis of federal data that revealed wide state-to-state disparities in TPR rates. Some states terminate rights at rates as much as 25 times higher than states at the lower end of the scale. Maryland, for example, had a rate of 10.5 parental rights terminations for every 100,000 children in 2014 while in neighboring West Virginia the rate was 283 per 100,000. Another high termination state was Oklahoma at 252 per 100,000.<sup>2</sup>

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In New York State, the focus of this article, there were approximately 30 TPRs for every 100,000 children in 2014,<sup>3</sup> relatively low compared with other states. Possible explanations for discrepancies in TPR rates between states include rates of drug abuse, poverty, single parenthood, large caseloads of human service agency workers, sparse supportive services, high incarceration rates of women and access to legal services. It is noteworthy that New York and Maryland, with their low TPR rates, are also relatively high-income states as compared to the high TPR rate states of Oklahoma and West Virginia.<sup>4</sup>

Looking at New York State statistics only, there were a total of 1,513 TPRs in 2010; 1,488 in 2012; 1,271 in 2014 and 1,136 in 2016.<sup>5</sup> This data is encouraging as it appears to reflect a downward trend. This trend has not been uniform across all counties.

In this exploratory article, we address variations in the rates of TPR in New York by county and seek some possible explanations for such variations. This is not a rigorous quantitative study. Rather, its scope arises from what we have noticed from front line practice. A starting assumption is that the data reveals some relationship between household income and TPR rates. We also look at possible effects of single-parent households, poor mental health, binge drinking, and drug-related hospitalizations. Before looking at the data, we will review the basic TPR process in New York State.

It is our hope that researchers will pick up on these findings for further and extended analysis, including analysis of TPR data from other states.

#### A. TERMINATION OF PARENTAL RIGHTS PROCEEDINGS IN NEW YORK STATE

New York State will terminate a parent's rights when it deems it to be necessary for a child's well-being. Petitions for involuntary termination of parental rights may be filed in Family Court by a city agency (such as the NYC Administration for Children's Services - ACS), a foster care agency, or a foster parent. A petition must state one of the following legally acceptable grounds:

- The parent has intentionally abandoned the child for six months;
- The parent has a mental health disability that renders the parent unable to care for the child both presently and for the foreseeable future;
- The parent frequently or severely abused the child;
- The parent perpetually neglected the child;
- The parent is incarcerated and has repeatedly failed to cooperate with efforts to assist the parent in planning for the child's future or in planning and arranging for visitation with the child; or
- The parent has been convicted of any of the following crimes: murder or voluntary manslaughter, or attempted murder or voluntary manslaughter, where the victim was another child of the parent; assault or aggravated assault upon a person less than age 11 that resulted in serious physical injury to the child or to another child of the parent.

Each of the first four grounds requires distinct and specific findings concerning factors such as the length of time a child has been out of a parent's care; the length of time since meaningful contact or communication by the parent with the child, agency, or foster placement; and the efforts required by the agency to facilitate reunification.<sup>6</sup> The Adoption and Safe Families Act (ASFA) *requires* a termination petition to be filed if a child has been determined to be an abandoned child; if the parent has been convicted of one of the crimes listed above; or if the child has been in foster care for 15 of the last 22 months, *unless*:

- the child is being cared for by relatives;
- the parent is incarcerated or is participating in a residential substance abuse treatment program and is maintaining a meaningful role in the child's life;

- the social services agency has failed to provide the parent with services necessary for the child's safe return to the home; or
- the agency has documented another compelling reason why the filing of a petition would not be in the best interests of the child.

Other compelling reasons to not file for termination may include, but are not limited to:

- the child is in foster care, and a review of the specific facts and circumstances demonstrate that the appropriate permanency goal for the child is either a return to his or her parent or guardian or a discharge to independent living;
- the child has a permanency goal other than adoption;
- the child is 14 or older and will not consent to adoption;
- there are insufficient grounds for filing a petition to terminate parental rights; or
- the child is the subject of a pending disposition under Article 10 of the Family Court Act.<sup>7</sup>

A petitioning agency or foster parent must serve a TPR petition and summons upon the respondent parent. In most cases, non-respondent parents must also be served. The court will then hold a fact-finding hearing which will generally include an attorney for the petitioner; the child's social services caseworker; an attorney for the child (also known as a law guardian); the respondent parent; and the respondent parent's attorney. Assuming proper service, the court can terminate parental rights even if a parent does not attend the hearing.<sup>8</sup>

In New York State, some parents are provided legal counsel in their TPR proceeding. The New York Court of Appeals has held that an indigent parent facing an adjudication of neglect, with potential consequences including termination of parental rights, is entitled to assistance of counsel, and is also entitled to be advised by the court of such right. *Matter of Ella B.*, 30 NY 2d 352 (1972).

If a judge determines that grounds for termination do not exist, the petition will be dismissed and the child may remain in foster care. If, however, the judge determines that the petitioner has met its burden of clear and convincing proof, the court will issue an order permanently terminating parental rights, which frees the child for adoption and commits guardianship and custody over the child to an authorized social services agency.<sup>9</sup>

Parents have 30 days to appeal a TPR order.<sup>10</sup> The next step is a dispositional hearing to determine what kind of placement would meet the child's best interests. The judge may also order an investigation into the surroundings, conditions, and capacities of the individuals involved in the case and request a report on the findings. At the dispositional hearing, the investigation and report can help identify an appropriate placement. The court may also consider the child's own wishes if the child is over 14 years of age.<sup>11</sup>

## B. HIGH INCOME AND LOW INCOME COUNTY DATA FOR NEW YORK STATE

There are 62 counties in New York State. We examined data for two dozen of these counties. Because we worked from a hypothesis that income would be a significant factor, we chose the dozen counties ranked highest in household income and the dozen ranked the lowest. We began with population information from the 2010 census and compiled the following comparative data for each county in Table 1:

- Median household income.<sup>12</sup>
- 2010 county population.<sup>13</sup>
- Estimated population of children under 18.<sup>14</sup>
- Number of completed TPR Judgments and number as a percentage of Total TPR cases.<sup>15</sup>
- Number of completed TPR Judgments per 10,000 children.<sup>16</sup>

- Percentage of children and youth living below the poverty line (CYLBP).<sup>17</sup>
- Percentage of children living in households headed by a single parent (5 year estimate for 2005–09) (CLHSP)<sup>18</sup>
- Percentage of adults reporting 14 or more days with poor mental health in the last month (2009) (PMH).<sup>19</sup>
- Percentage of binge drinking in the past 30 days (5 + drinks in a row) in adults (2009) (BD).<sup>20</sup>
- Drug related hospitalizations per 10,000 (2008–10) (DRH).<sup>21</sup>

The data does indicate certain correlations. Most notably, and as anticipated, there was clearly a higher rate of TPRs among the dozen counties with the lowest average household income than among the dozen with the highest average household income. This correlation, as well as others, however, must be considered in light of certain caveats. We will discuss a few of these caveats before further analysis.

### C. NUMBER OF TPRS PER COUNTY

As Table 1 shows, the annual TPR rate in the majority of New York counties is less than 20. The source for this data (KWIC) notes that numbers below 20 do not necessarily represent stable rates. We therefore attempted to test for stability by comparing 2010 rates with rates for 2012, 2014, and 2016 (see Table 2).

This comparison revealed a surprising trend. As previously noted, total TPRs in New York State decreased across this timespan. Among the counties we reviewed, however, this decrease was notable only in Bronx County. For the remaining lower income counties, the average rate was relatively stable, and the average rate for the higher income counties actually increased slightly. This was true both for New York County and for the remaining 11 high income counties. Bronx County alone saw a dramatic decrease. This could not be easily explained by any other factor we looked at, although there was also a slight decrease in the numbers and percentages of CYLBP in Bronx County between 2010 and 2016.<sup>22</sup> It would be interesting to examine whether there were other socioeconomic changes or changes in the TPR process in Bronx County over this time span that would help explain the decrease.

Another factor to consider when reviewing per county numbers is the possible impact of significant outliers. The information above brings this into sharp focus. Among the 12 lowest income counties, Bronx County dwarfs all others in both population and raw TPR numbers. In the 12 highest income counties, there are three with outlier populations of over 1 million, but only one of these, New York County, also had an unusually high number of TPRs for the population. Because New York County and Bronx County are part of New York City, they have not only unusually high populations, but also unusually high-density populations. We have therefore presumed that there may be unidentified elements in common to these two New York City populations and in some cases will present data both including and excluding these counties.

### D. HOUSEHOLD INCOME

Table 1 reports median household income per county. Income measured by other means, such as per capita income, may vary significantly. For example, New York County, which comprises the borough of Manhattan, ranks 9th in median household income, but would rank first in per capita income. It is also worth noting that just because a county is similar in terms of median household income does not mean it is similar in other ways. For example, the lowest income county on the list is Bronx County, an urban county within New York City, while the second lowest is Chautauqua County, a rural county in the westernmost portion of the state.

**Table 1**  
High Income and Low Income Data for New York State

Lowest Income	Income <sup>a</sup>	Pop 2010 <sup>b</sup>	Est. Pop <18 <sup>c</sup>	TPRs 2010 <sup>d</sup>	/10K <18 <sup>e</sup>	CYLBP/2010 <sup>f</sup>	CLHSP% <sup>g</sup>	PMH%/2009 <sup>h</sup>	BD%/2009 <sup>i</sup>	DRH/10K/08-0 <sup>j</sup>
Bronx	\$34,264	1,385,108	344,892	342%/60.6%	9.9	152072/42.2%	63	9.1	11.4	68.0
Chautauqua	\$40,639	134,905	27,521	6/50%	2.2	7,299/25.4%	35	10.2	20.5	20.4
Allegany	\$41,305	48,946	9,985	5/45.5%	5	2,377/23%	31	8.6	19.4	12.1
Franklin	\$42,050	51,599	9,959	N/A	N/A	N/A	34	8.3	21.2	25.2
St. Lawrence	\$42,303	111,944	2,425	8/23.5%	3.3	5,879/25.4%	32	11.3	21.8	33.9
Herkimer	\$42,318	64,519	8,844	5/35.7%	5.66	3,175/22.7%	34	10.1	20.2	19.3
Cattaraugus	\$42,466	80,317	17,911	2/18.2%	1.17	4,042/22.1%	34	10.6	24.5	14.7
Montgomery	\$42,603	50,219	11,500	2/40%	1.74	3,214/27.9%	40	9.9	14.3	25.6
Lewis	\$42,846	27,087	6,203	3/42.9%	4.8	1,423/21.8%	22	8.9	22.7	8.7
Delaware	\$42,967	47,980	8,109	4/28.6%	4.8	1,904/20.9%	32	8.5	19.1	23.4
Fulton	\$43,240	55,531	11,273	4/36.4%	3.54	2,886/24.2%	44	14.3	19.7	22.4
Jefferson	\$43,410	116,229	27,895	1/40.7%	3.9	6,046/20.8%	34	7.1	18.9	16.6
<b>Highest Income</b>		<b>Pop 2010</b>	<b>Est. Pop &lt;18</b>	<b>TPRs/2010</b>	<b>J/10K &lt;18</b>	<b>CYLBP/2010</b>		<b>PMH%/2009</b>	<b>BD%/2009</b>	<b>DRH/10K/08-10</b>
Nassau	\$93,613	1,339,532	289,339	16/37.2%	.55	24,750/8.1%	19	9.6	20.1	19.6
Putnam	\$89,218	99,710	19,942	2/25.0%	1.00	1,398/6.0%	16	9.5	19.8	23.7
Suffolk	\$84,506	1,493,350	319,577	52/40.3%	1.63	29,357/8.4%	21	13.1	20.7	25.2
Rockland	\$82,534	311,687	86,961	8/88.9%	.92	15,874/18.3%	17	8.1	13.1	24
Westchester	\$79,619	949,113	210,703	34/41.5%	1.61	25,689/11.5%	26	9.9	18	23.5
Richmond	\$71,084	468,730	102,652	13/23.2%	1.27	18,659/17.2%	26	6.3	14.4	43.9
Dutchess	\$69,838	297,488	56,820	18/47.4%	3.17	6,936/10.7%	24	13	18.1	28.1
Orange	\$69,838	372,813	95,067	26/31.3%	2.73	16,989/16.9	22	7.9	19.1	28.5
Saratoga	\$65,100	219,607	44,800	0/0	N/A	4,140/8.4%	22	10.2	20.1	14.4
New York	\$64,971	1,585,873	228,366	156/49.4%	6.83	53,509/23.2%	44	8.9	17.3	42.5
Ulster	\$57,584	182,493	32,666	6/50%	1.84	5,490/15.3	30	13.6	17.3	26.4
Ontario	\$56,468	107,931	22,126	3/33.3%	1.36	3,479/14.5	26	11	21	12.4

<sup>a</sup>U.S. Census Bureau American Fact Finder Selected Economic Characteristics: Median Household Income New York Counties 2010. (Per capita income.

<sup>b</sup>New York 2010 Census of Population and Housing.

<sup>c</sup>U.S. Census Bureau Quick Facts New York Population Estimates Program (PEP) (percentages converted to numbers).

<sup>d</sup>NYS Council on Children and Families Kids' Well-being Indicators Clearinghouse (KWIC) Indicator: 2010 Foster Care - Terminated Parental Rights Judgments. Percentages represent completed TPR judgments in the calendar year as a percentage of total TPR's that year (Remainder were dismissed, withdrawn, suspended or otherwise disposed of).

<sup>e</sup>2010 TPRs per 10,000 people under the age of 18.

<sup>f</sup>KWIC Indicator: 2010 Children and Youth Living Below Poverty.

<sup>g</sup>American Community Survey, 5-year estimates 2005-2009. Percentage of children that live in a household headed by single parent.

<sup>h</sup>New York State Department of Health: 2009 Percentage of adults reporting 14 or more days with poor mental health in last month.

<sup>i</sup>New York State Department of Health: 2009 Percentage of binge drinking past 30 days (5 + drinks in a row) in adults.

<sup>j</sup>New York State Department of Health: 2008-10 Drug-related hospitalizations (per 1,000) (See individual counties for 2008-10 data).

**Table 2**  
Number of TPRs Per County

Lowest Income	TPRJ's/2010 <sup>a</sup>	TPRJ's/2012	TPR's /2014	TPRJ's/2016 <sup>b</sup>
Bronx	342/60.6%	313/62.5%	204/48.7%	145/59.4%
Chautauqua	6/50%	6/35.3%	7/36.8%	9/34.6%
Allegany	5/45.5%	0	7/70.0%	4/44.4%
Franklin	N/A	0	3/33.3%	3/33.3%
St. Lawrence	8/23.5%	2/11.8%	2/15.4%	8/38.1%
Herkimer	5/35.7%	9/47.4%	4/28.6%	2/22.2%
Cattaraugus	2/18.2%	9/50%	14/66.7%	11/84.6%
Montgomery	2/40%	6/75%	2/100.0%	3/42.9%
Lewis	3/42.9%	N/A%	1/N/A	1/N/A%
Delaware	4/28.6%	3/30%	3/7.9%	5/13.9%
Fulton	4/36.4%	1/100%	1/100.0%	0
Jefferson	11/40.7%	13/50%	1/16.7%	4/26.7%
Total	392	362	249	195
<b>Highest Income</b>	<b>TPRJ's/2010</b>			<b>TPR's/2016</b>
Nassau	16/37.2%	5/13.9%	7/21.2%	21/36.8%
Putnam	2/25.0%	1/50%	5/100.0%	3/60%
Suffolk	52/40.3%	52/42.3%	54/34.8%	38/48.7%
Rockland	8/88.9%	2/100%	6/60.0%	5/83.3%
Westchester	34/41.5%	31/32.6%	38/48.7%	37/56.9%
Richmond	13/23.2%	54/58.7%	43/62.3%	46.63.9%
Dutchess	18/47.4%	10/17.2%	22/41.5%	15/33.3%
Orange	26/31.3%	53/65.4%	24/58.5%	60/61.2%
Saratoga	0	N/A	0	1/16.7%
New York	156/49.4%	185/65.1%	162/57.2%	106/45.9%
Ulster	6/50.0%	8/32%	5/20.8%	7/35%
Ontario	3/33.3%	1/33.3%	2/11.8%	3/37.5
Total	334	402	368	342

<sup>a</sup>NYS Council on Children and Families Kids Well-being Indicators Clearinghouse (KWIC) Indicator: 2010 Foster Care - Terminated Parental Rights Judgments. Percentages reflect the respective number of TPR judgments in a calendar year by the total number of completed TPR judgments during that year.

<sup>b</sup>KWIC Indicator: 2016 Foster Care - Terminated Parental Rights Judgments.

## E. ASSESSING THE COUNTY DATA

### 1. TPRs Relative to Income

There was clearly a higher rate of TPRs among the dozen counties with the lowest average household income than among the dozen with the highest average household income. Among the latter group, there were 392 completed TPRs in 2010. The estimated total number of children under 18 in these 12 counties, excluding Franklin County, for which 2010 TPR numbers were not available, was 476,558. The approximate number of TPRs per 10,000 children was therefore 8.2. If we exclude Bronx County, the under 18 population drops to 131,666, the number of TPRs drops to 50, and the number per 10,000 becomes 3.8. Among the former group, there were 334 completed TPRs and the estimated total number of children under 18 was 1,509,019. The number of TPRs per 10,000 children was therefore 2.2. If we exclude the potential outlier county of New York, the under 18 population drops to 1,280,653 and the number of TPRs drops to 178. The average per county number of TPRs per 10,000 then becomes .72.

Whether the above data is looked at including or excluding the two high-density New York City counties, there appears therefore to be a clear correlation between the average household income of counties and the number of completed TPRs per 10,000 children, as shown in Table 3.

**Table 3**  
TPRs Relative to Income

	Lowest Income	Highest Income	Ratio
TPRs/10k under 18	8.2	2.2	3.7: 1
W/o Bronx and NYC	4.8	.72	6.67:1

## 2. Completed TPR Judgments Vs. Total TPR Cases

The second figure in column 4 of Table 1 represents the percentage of total TPR cases that resulted in completed judgments. Most of the remaining cases were either dismissed, withdrawn, or had judgment suspended. Averaging the completed percentage numbers for the top dozen counties (excluding Franklin County) and the bottom dozen counties reveals little difference. The average rate of completion was approximately 38% for the bottom dozen, while for the top dozen it was approximately 39%. While there might be many variables affecting completion rates, one possible conclusion from this comparison would be that differences in the outcomes of TPR cases, as opposed to differences in total TPR cases, are not explainable by factors that primarily affect lower income counties.

## 3. Children and Youth Living Below the Poverty Line

Column 6 of Table 1 shows the estimated number of children and youth living below the poverty line (CYLBP), both as a total number and as a percentage of all children in the county. As would be expected, the lowest income counties have a higher number of CYLBP than the highest income counties. The average percentage of CYLBP for the 12 bottom income counties was 25.13. Leaving out Bronx County with its high percentage of 42.2 lowers the average to 23.42%. For the highest income counties, the average percentage was 13.2. Leaving out New York County, with its also somewhat surprisingly high percentage, lowers the average slightly to 12.3%. Either way, the lowest income counties have approximately double the percentage of CYLBP than the highest income counties (see Table 4). The important question is, how does this correlate with the number of TPRs in the county?

Combining the CYLBP data in Table 4 with the average number of TPRs per county shown in Table 3 shows that the higher rate of TPRs in lower income counties seems to be only partially explained by the CYLBP number. It is possible, therefore, that lower income alone might affect TPR numbers, regardless of whether or not income is low enough to put a family below the poverty line.

This possibility is supported by the simple economic realities of life in the United States. Lower income, even if not technically below the poverty line, can make it substantially more difficult to afford childcare. Children may then be left unattended more frequently at younger ages. It also requires more than a living income in New York State to be able to afford a highly skilled private attorney. We could hypothesize that having a court-appointed attorney who must handle many cases at a time with fewer resources available might lead to poorer outcomes on average.

**Table 4**  
CYLBP Data

	Lowest Income	Highest Income	Ratio
CYLBP%	25.13	13.2	1.9:1
W/o Bronx and NYC	23.42	12.3	1.9:1

**Table 5**  
CLHS Data

	Lowest Income	Highest Income	Ratio
CLHSP%	36.25	24.42	1.48:1
W/o Bronx and NYC	33.8	23.6	1.43:1

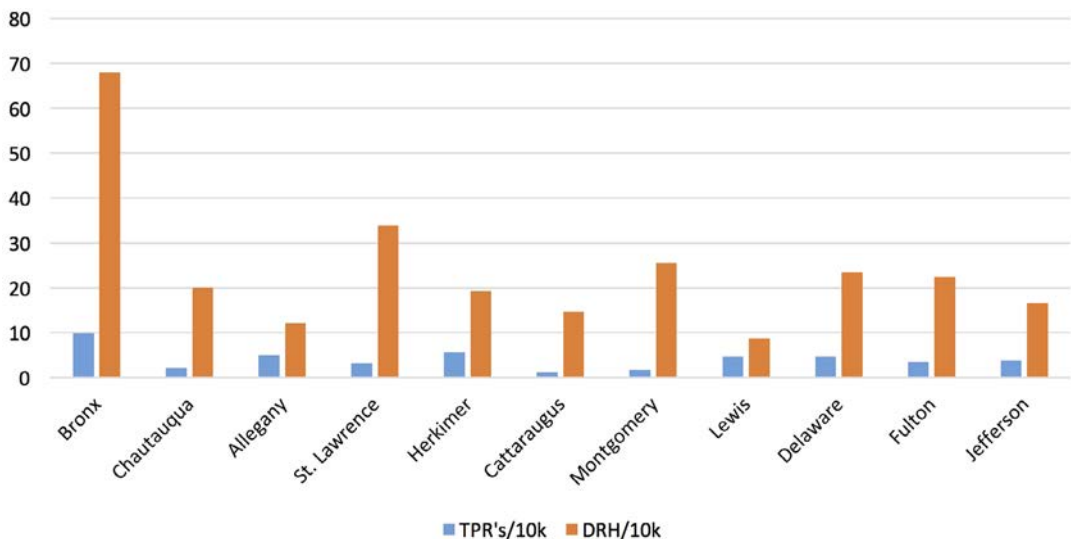
**4. Single Parent Households**

Another factor we examined was the effect of living in a household headed by a single parent (CLHS). While single parent households tend to be lower income households, single parents may also experience a lack of resources that is largely independent of income but still translates into a higher likelihood of child neglect. For example, not having a second parent in the home to provide support with childcare would multiply the difficulties already present for parents who cannot afford good quality childcare.

According to the data, approximately 36.15% of children in the lowest income counties lived in a single parent household in 2010, compared with 24.42% in the highest income counties. Excluding Bronx and New York Counties changes these numbers to 33.8% and 23.6%. (See Table 5). While the data does not separate single parenthood from income, it is possible that single parenthood is another independent contributor to variations in TPR rates.

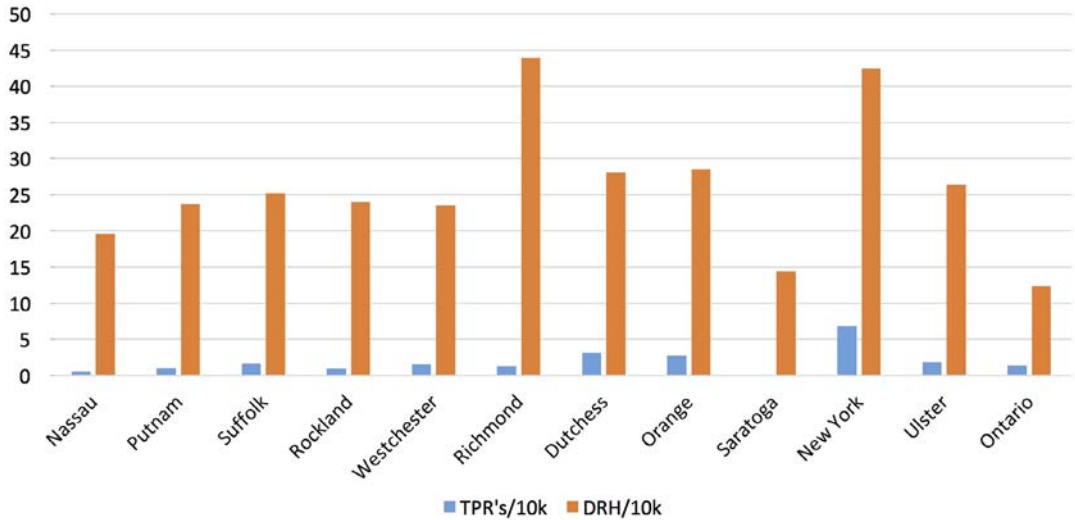
**5. Poor Mental Health, Binge Drinking, and Drug-Related Hospitalizations**

Perhaps surprisingly, as measured in the data, poor mental health (PMH), binge drinking (BD) and drug-related hospitalizations (DRH) were not significantly related to average household income for the top highest and top lowest counties. Nor were they clearly related to TPR rates between counties, except perhaps for the two New York City counties of Bronx and New York. In fact, the average rate of DRHs in the highest income counties was 26.01 per 10,000 as compared with 24.1 per 10,000 in the lowest income counties. This means that TPRs in relation to DRH's were actually



**Chart A** TPRs per 10,000 children compared with DRHs per 10,000 - lowest household income counties.





**Chart B** TPRs per 10,000 children compared with DRHs per 10,000 - highest household income counties.

much higher in low income counties than in high income counties (See Charts A and B). The same is true to some degree for both PMH and BD. The average rate of PMH for the lowest income counties was 9.74%, while the average rate for the highest income counties was 10.09%. The average rate of BD for the lowest income counties was 19.48% and the average rate for the highest income counties was 18.25%. These do not appear to be significant differences.

While this data alone does not support any certain conclusions, one possible explanation is that wealth confers a protective effect that cancels out what might otherwise be TPR rates that rise in connection with DRH, PMH or BD.

## F. CONCLUSION

The states and courts have affirmed repeatedly that the bond between a parent and child is vital. Nonetheless, those same states and courts have also recognized that there are times when that bond must be severed. Protecting the safety of the child takes precedence over preserving the unity of the family at all costs.

Given this task, why is there such variation between rates of TPR between New York counties?

The data we have gathered is only an exploratory gathering of evidence, but even from these initial findings, it appears that parental income alone may be a core predictive factor in TPR outcomes. Wealthier parents have lower TPR rates and lower income parents have higher TPR rates in New York State.

There could be many reasons for this kind of effect. Lower income, even if not technically below the poverty line, can make it substantially more difficult to afford childcare. Children may then be left unattended more frequently at younger ages. It also requires more than a living income in New York State to be able to afford a highly skilled private attorney. We could hypothesize that having a court-appointed attorney who must handle many cases at a time with fewer resources available might lead to poorer outcomes on average.

We also need to acknowledge the limitations of comparing low-income families with those families of higher income. In rural counties where courthouses can be a great distance from the party's home, the outcome of the TPR could be based on something as simple as the parent not having access to a car or public transportation to attend the court hearing. This would be a problem parents

of higher income would not typically face. A question for future researchers is: How do we capture this kind of data?

Tangible disadvantages, including lack of childcare and diminished access to legal resource as mentioned above, can be readily pointed out. Intangible disadvantages are not as apparent. For example, economically disadvantaged parents may have also experienced their own family history of trauma and parental abandonment as children and are perpetuating this in their own lives as parents.

In future analyses, researchers may feel inspired to survey those involved in TRP cases to understand more about their personal backgrounds or find out if any such information is available through the courts. Currently, simply stacking raw data vs. raw data when comparing higher and lower income parents does not capture these personal stories. This may be a call to states as well to provide a more detailed picture of TPR rates, while still preserving privacy. Once we know what tips the balance towards TPRs, we will be better able to address parent issues and support keeping families together.

It is hoped that what we have presented here piques further and extended quantitative study. Critical policy and management decisions are constantly being made that affect the lives of many families and children of all income levels and walks of life. A commitment of time, effort, and resources is needed to ensure that each state's law regarding TPR is being consistently and fairly implemented.

## ENDNOTES

1. *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (stating that parental interests are “perhaps the oldest of the fundamental liberty interests”). The U.S. Supreme Court has also explained that “[t]he child is not the mere creature of the State.” *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925). Instead, “[i]t is cardinal that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.” *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) (citing *Pierce*, 268 U.S. at 535)).

2. David Crary, *Terminating parental rights: State policies vary widely*, ASSOCIATED PRESS (Apr. 30, 2016), <https://apnews.com/c9fec9ee24d64f4b9e56d1425179a50e>.

3. Table 1: *Estimated Population by Age, Sex, and Region, New York State – 2014*, N.Y. DEP’T OF HEALTH (2014), [https://www.health.ny.gov/statistics/vital\\_statistics/2014/table01.htm](https://www.health.ny.gov/statistics/vital_statistics/2014/table01.htm); *Kids’ Well-being Indicators Clearinghouse (KWIC) Indicator: 2014 Foster Care – Terminated Parental Rights Judgments*, N.Y.S. COUNCIL ON CHILD. & FAM., [https://www.nyskwic.org/get\\_data/indicator\\_profile.cfm?subIndicatorID=83&indYear1=2014&go.x=18&go.y=14&indYear2=2016](https://www.nyskwic.org/get_data/indicator_profile.cfm?subIndicatorID=83&indYear1=2014&go.x=18&go.y=14&indYear2=2016).

4. *United States – Median household income (in 2018 dollars), 2014–2018 by State*, INDEX MUNDI, <https://www.indexmundi.com/facts/united-states/quick-facts/all-states/median-household-income#map>.

5. *Kids’ Well-being Indicators Clearinghouse (KWIC) Indicator: 2010 Foster Care – Terminated Parental Rights Judgments*, N.Y.S. COUNCIL ON CHILD. & FAM., [http://www.nyskwic.org/get\\_data/indicator\\_profile.cfm?indicatorid=38&Go.x=10&Go.y=24&Go=Go](http://www.nyskwic.org/get_data/indicator_profile.cfm?indicatorid=38&Go.x=10&Go.y=24&Go=Go).

6. N.Y. SOC. SERV. LAW §§ 358-a; 384-b.

7. N.Y. SOC. SERV. LAW § 384-b.

8. *Termination of Parental Rights*, N.Y. CTS, [http://ww2.nycourts.gov/courts/7jd/courts/family/case\\_types/termination\\_of\\_parental\\_rights.shtml](http://ww2.nycourts.gov/courts/7jd/courts/family/case_types/termination_of_parental_rights.shtml).

9. N.Y. FAM. CT. ACT §1089 (2018).

10. N.Y. FAM. CT. ACT §1113 (2010).

11. *Termination of Parental Rights*, N.Y. CTS, [http://ww2.nycourts.gov/courts/7jd/courts/family/case\\_types/termination\\_of\\_parental\\_rights.shtml](http://ww2.nycourts.gov/courts/7jd/courts/family/case_types/termination_of_parental_rights.shtml).

12. U.S. Census Bureau American Fact Finder Selected Economic Characteristics: *Median Household Income New York Counties 2010*, U.S. CENSUS BUREAU (2012), [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_16\\_5YR\\_DP03&src=pt](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_16_5YR_DP03&src=pt).

13. *New York 2010 Census of Population and Housing*, U.S. CENSUS BUREAU (2012), <https://www.census.gov/prod/cen2010/cph-2-34.pdf>.

14. U.S. Census Bureau Quick Facts New York Population Estimates Program (PEP) (percentages converted to numbers), U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/NY/AGE295218>.

15. *Kids’ Well-being Indicators Clearinghouse (KWIC) Indicator: 2010 Foster Care - Terminated Parental Rights Judgments*, N.Y.S. COUNCIL ON CHILD. & FAM., [http://www.nyskwic.org/get\\_data/indicator\\_profile.cfm?indicatorid=38&Go.x=10&](http://www.nyskwic.org/get_data/indicator_profile.cfm?indicatorid=38&Go.x=10&)

Go.y=24&Go=Go. Percentages represent completed TPR judgments in the calendar year as a percentage of total TPRs that year (Remainders were dismissed, withdrawn, suspended or otherwise disposed of).

16. 2010 TPRJ's per 10,000 people under the age of 18.

17. *Kids' Well-being Indicators Clearinghouse (KWIC) Indicator: 2010 Children and Youth Living Below Poverty*, N.Y. S. COUNCIL ON CHILD. & FAM., [https://www.nyskwic.org/get\\_data/indicator\\_profile.cfm?indicatorid=1&Go.x=11&Go.y=19&Go=Go](https://www.nyskwic.org/get_data/indicator_profile.cfm?indicatorid=1&Go.x=11&Go.y=19&Go=Go).

18. Children in single-parent households; Percentage of children that live in a household headed by single parent, COUNTY HEALTH RANKINGS (five-year estimates 2005–2009), <https://www.countyhealthrankings.org/app/new-york/2011/measure/factors/82/datasource>.

19. *2009 Percentage of adults reporting 14 or more days with poor mental health in last month*, N.Y. DEP'T OF HEALTH, [https://www.health.ny.gov/prevention/prevention\\_agenda/indicators/docs/mental\\_health.pdf](https://www.health.ny.gov/prevention/prevention_agenda/indicators/docs/mental_health.pdf). (For more information on Department of Health indicators, see: [https://www.health.ny.gov/prevention/prevention\\_agenda/about\\_indicators.htm](https://www.health.ny.gov/prevention/prevention_agenda/about_indicators.htm)).

20. *2009 Percentage of binge drinking past 30 days*, N.Y. DEP'T OF HEALTH, [https://www.health.ny.gov/prevention/prevention\\_agenda/indicators/docs/adults\\_binge\\_drinking.pdf](https://www.health.ny.gov/prevention/prevention_agenda/indicators/docs/adults_binge_drinking.pdf) (explaining that binge drinking is five or more drinks in a row for men.)

21. *2008–10 Drug-related hospitalizations*, N.Y. DEP'T OF HEALTH, [https://www.health.ny.gov/prevention/prevention\\_agenda/indicator\\_map.htm](https://www.health.ny.gov/prevention/prevention_agenda/indicator_map.htm) (per 1,000) (See individual counties for 2008–10 data).

22. *Kids' Well-being Indicators Clearinghouse (KWIC) Indicator: Children and Youth Living Below Poverty*, N.Y.S. COUNCIL ON CHILD. & FAM., [https://www.nyskwic.org/get\\_data/indicator\\_profile.cfm?subIndicatorID=1&indYear1=2010&go.x=6&go.y=12&indYear2=2016](https://www.nyskwic.org/get_data/indicator_profile.cfm?subIndicatorID=1&indYear1=2010&go.x=6&go.y=12&indYear2=2016) (152,072/42.2% in 2010 vs. 142,806/39.8% in 2016).

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