

# CHALLENGES FACING THE CHILD WELFARE SYSTEM

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## HEARING BEFORE THE SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT OF THE COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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MAY 15, 2007

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**CHALLENGES FACING  
THE CHILD WELFARE SYSTEM**

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**TUESDAY, MAY 15, 2007**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:03 a.m., in room B-318, Rayburn House Office Building, Hon. Jim McDermott (Chairman of the Subcommittee), presiding.  
[The advisory announcing the hearing follows:]

# ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

## SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT

FOR IMMEDIATE RELEASE  
May 08, 2007  
ISFS-7

CONTACT: (202) 225-1721

### **McDermott Announces Hearing on Challenges Facing the Child Welfare System**

Congressman Jim McDermott (D-WA), Chairman of the Subcommittee on Income Security, today announced a hearing on the challenges that State child welfare agencies face in serving children under their supervision. **The hearing will take place on Tuesday, May 15, 2007, at 10:00 a.m. in room B-318 Rayburn House Office Building.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing.

#### **BACKGROUND:**

Approximately 3.6 million children were the subject of child abuse and neglect investigations in 2005 (the most recent year for which data is available), of which nearly 900,000 children were found to be the victims of substantiated cases of maltreatment. An estimated 317,000 children were not able to live safely in their homes and were placed in foster care. On any given day during that year, over a half million children were in the foster care system.

The primary goal of the child welfare system is to ensure the safety and well-being of children who are victims of abuse or neglect, or at-risk for such maltreatment. Child welfare caseworkers investigate allegations of abuse or neglect and determine what services can be offered to stabilize and strengthen a child's own home. If remaining in the home is not in the best interest of a child, he or she may be placed in foster care while efforts are made to either improve the home, or find a safe and permanent home for the child.

According to the Government Accountability Office (GAO), State child welfare agencies identified three primary challenges as most important to resolve to improve the outcomes for children under their supervision: providing an adequate level of services for children and families; recruiting and retaining caseworkers; and, finding appropriate homes for certain children. Notably, most States were dissatisfied with the level of mental health and substance abuse services for both parents and children, large caseload sizes for their child welfare workforce, and their ability to find permanent homes for children with special needs. Others have identified additional challenges, such as providing an adequate level of services to children aging out of the foster care system, the over-representation of children of color in the child welfare system, and limited access to post-adoption services.

In announcing the hearing, Chairman McDermott stated, **"There are a number of obstacles that undermine the ability of the child welfare system to ensure safe, nurturing and permanent homes for children in the foster care system. Overcoming these obstacles is critical to achieving positive outcomes for our most vulnerable children. This hearing will be the first step toward reviewing our Nation's child welfare system, and its capacity to ensure the safety of children and to provide necessary resources to families in crisis."**

**FOCUS OF THE HEARING:**

The hearing will focus on factors that most negatively impact States efforts to ensure the safety, well-being and permanency of children under their supervision.

**DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

**Please Note:** Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "110th Congress" from the menu entitled, "Hearing Archives" (<http://waysandmeans.house.gov/Hearings.asp?congress=18>). Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the on-line instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You **MUST REPLY** to the email and **ATTACH** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **May 29, 2007**. **Finally**, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721.

**FORMATTING REQUIREMENTS:**

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://waysandmeans.house.gov>.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

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Chairman MCDERMOTT. Today we are very pleased to have this panel of witnesses. The door in the nation's child welfare system is usually opened when a parent fails to uphold their most solemn responsibility: ensuring their child's safety and well-being.

Once inside the system, a child becomes the responsibility of the State. As their de facto parent, we cannot afford to fail these chil-

dren again. The consequence of such failure is simply too high for these children, and for the Nation.

Now, this is a creed that dedicated caseworkers, juvenile court judges, and foster parents live by, but too often, they are stymied by a host of challenges: too few available services; too few caseworkers; and too little attention by government, really, at every level.

Today's hearing focuses on the obstacles that states encounter in their efforts to achieve positive outcomes for our Nation's most vulnerable children and families. The hearing will seek to evaluate the factors that most negatively impact the safety, well-being, and permanency of children under the supervision of the child welfare system.

There should really be no political divide between the Republicans and the Democrats, when it comes to providing for vulnerable kids. In fact, this Subcommittee has demonstrated success in this area in the past, by working together in a bipartisan fashion.

Most recently, I worked with Mr. Herger, who is not yet here, but who is the former Chairman of the Subcommittee, to reauthorize the Promoting Safe and Stable Families program.

In addition to reauthorizing funding for 5 years to support activities designed to prevent child abuse and support family preservation services, we also: required states to ensure monthly casework visits for children in foster care, or make progress toward that goal; provide new resources to improve the recruitment, retention, and training of caseworkers; provided funding for grants to combat the impact of substance abuse, such as methamphetamine, in the child welfare system; and, finally, required states to create disaster plans within their child welfare programs, to ensure that the safety and well-being of children during a natural disaster are met.

This legislation was a step in the right direction. It was just one small step, but we really need to make a giant leap. We need a system that focuses on preventing abuse, not just responding to it. We need qualified and experienced caseworkers who are not forced to oversee twice as many kids as are recommended, and we need a Federal funding structure that adequately supports children and families in crisis.

Now, these goals will not be fulfilled by the passage of a single bill. They demand a full, long-term commitment to careful and vigilant oversight, followed up with appropriate action.

The problems of the child welfare system did not arise overnight, and will not be addressed in that timeframe. Nevertheless, progress is not only possible, but it's within our reach if we work together. I hope this marks the beginning of that journey. I now yield to Mr. Weller, the Ranking Member. Mr. Weller?

Mr. WELLER. Thank you, Mr. Chairman, and thank you for conducting this hearing this morning.

Today, we will consider the challenges facing child welfare systems around this Nation. As a dozen hearings in this Subcommittee have established in recent years, those challenges are many, and great, and often have multiple causes, complicating efforts at reform.

Despite that complexity and need for reform, some argue that key challenges facing child welfare systems all have to do with

underfunding. That ignores the fact that taxpayers spend more than \$23 billion per year for child protection and foster care and adoption programs, according to the Child Welfare League of America.

So, instead of asking whether we are spending enough, we should consider whether we are spending taxpayer funds as well as we can. In a number of ways, we can certainly do better.

For example, I have a longstanding interest in training the child welfare workers. Today I will reintroduce legislation I have authored in prior congresses, designed to address a glaring flaw in current rules, by ensuring all child welfare workers, whether they work for public or private agencies, have access to the same training needed to protect children.

Take Will County Catholic Charities, in the district I represent, which helps protect over 300 children in foster care. There is simply no reason why a caseworker with Will County Catholic Charities should have less access to training than an equally dedicated caseworker who happens to be a public employee, yet that is what current Federal rules promote.

We should fix this, and we should also address longstanding concerns about Federal funding for Native American children, and the services and supports designed to better protect them. Our first Americans should be treated as full Americans, including in child welfare programs.

Some of the witnesses before us today think we also could do better when it comes to targeting efforts to better prevent abuse and neglect from occurring in the first place. That would result in fewer children needing foster care, freeing more resources to ensure the safety, permanency, and well-being of those who do.

Both goals are critical: better prevention and better oversight. Some areas have shown progress, but they are all too rare. Recent positive examples include Illinois and New York City, which have dramatically reduced the number of children who need foster care.

In the 2006 congress, led by members of this Subcommittee, we took some modest steps in the right direction, by targeting more funds for child abuse prevention, and holding states more accountable for results.

Still, we will also hear today too many other areas, like Clark County, Nevada, have continued to prove the risks for children, when child welfare systems fail to protect them.

Joining us today is Ed Cotton, who has broad experience in child welfare programs in my home State of Illinois, as well as New Jersey and Nevada. Most recently, Mr. Cotton conducted a top-to-bottom review of Clark County, Nevada's child welfare program in the wake of recent tragedies there. As this review and Mr. Cotton's testimony relates, in Clark County and too many other places, this system has a very long way to go to ensure that children are adequately protected.

Thank you, Mr. Chairman. I look forward to the testimony.

Chairman MCDERMOTT. Thank you. Any other members who have statements certainly can put them in the record, without objection.

We are lucky today to have a very distinguished panel of witnesses. You have all submitted testimony, which will be entered

into the record. We would like you to summarize those things you think are most important, and perhaps you can add more to it, beyond what you have actually written.

So, I will begin with Ms. Anne Holton, who is the First Lady of Virginia. That's not what brings her here. What brings her here is that she was, in 1998, appointed a judge of the Juvenile Domestic Relations District Court of Richmond, and we welcome you, Judge Holton.

**STATEMENT OF ANNE HOLTON, FIRST LADY OF THE  
COMMONWEALTH OF VIRGINIA**

Ms. HOLTON. Thank you, Chairman McDermott, Congressman Weller, other members, Committee members, and staff. Good morning, and thank you for the opportunity to talk with you today.

Before my husband became Virginia's Governor, as Congressman McDermott said, I served as a J&DR judge in Richmond, Virginia, a mid-sized urban jurisdiction with a large foster care population. In that role, I got to know some remarkable foster kids, who were striving mightily to become independent, successful adults, but were finding out just how hard that is to do without family support.

In my years on the bench, I watched ASFA, the Adoption Safe Families Act 1997, take hold in our community. I'm proud to say the results were impressive. We worked together across agency lines to ensure that no child remained in care longer than necessary. Our foster care population and our lengths of stay in care, declined by 30 percent. Our adoptions increased, literally, tenfold, without risking child safety and well-being.

One of the lessons I took from this is that change can happen, and that you, at the Federal level, can be important instruments of change.

In my time on the bench, however, I saw that, while we were making progress, primarily with the younger children, we were less successful with older kids. They have often had some horrific experiences in their short lives, and not surprisingly, some of them have behavioral challenges. As a parent, I am aware that teenagers are almost, by definition, challenging. They are still children, and they still need, and deserve, families.

Studies show that young people who age out of care at 18 or older without a family, as almost 25,000 kids do every year, will likely become homeless, incarcerated, or on welfare rolls within a few short years. They are less educated, less able to support themselves, and have no family safety net.

The good news is that we can help these young people make permanent family connections. In my role as first lady, I have launched an initiative called, "For Keeps," to improve Virginia's systems for finding and strengthening permanent families for older kids in care, or at risk of coming into care. As part of that effort, I have been traveling around our commonwealth, meeting and listening to hundreds of young people, families, and professionals involved in child welfare.

I met, for instance, a social worker who was recruiting adoptive families for difficult-to-place children, such as a 16-year-old girl with severe cerebral palsy and initially, severe behavioral prob-

lems, as well. Her new mom, whom I met, is a nurse, adopting her with the support of an extraordinary extended family.

I learned about families who have successfully adopted 14-year-old and 15-year-old boys, direct from residential treatment facilities. These young people now have much better prospects. Incidentally, are no longer costing the State \$100,000 annually for their care.

Another lesson I have learned is that we can and must do better in providing support for young adults in or formerly in foster care. One couple told me of their struggles to pay for college for the two older boys they recently adopted, not having had a lifetime to save for that college expense.

I heard from older students, who had lost their Medicaid when they got part-time jobs, or who needed more help with employment and other independent living skills. On average, young people in intact families do not move finally out of the family home—a slightly frightening fact, again, as a parent—until age 26, long past when we effectively cut loose our foster kids.

Before I close, I would like briefly to touch on some Federal policy issues in child welfare—and you all know this. First, Title IV-E resources have dwindled over the past decade. More foster children are excluded each year, due to the look-back provisions that tie eligibility to their family's qualifications under 1996 AFDC income limits. Such Byzantine requirements serve no useful purpose, and take social worker time away from real services to children.

Second, Federal support for preserving families, and preventing a child's entry into foster care is limited, leaving agencies sometimes to place children into care who might have safely remained with their families with more support. This is a worse option for the child and taxpayers.

Finally, the Federal Government has an opportunity to encourage more effective research to guide the states in improving child welfare. Good research is scarce, and much needed in this area.

My written testimony mentioned some other Federal policy concerns. I have also attached a national Governors Association policy statement on child welfare, which summarizes the Governors' collective experience, and recommendations in this area.

I thank you for your work on behalf of our nation's foster youth, and stand ready to assist in any way I can, as we all work together to best serve our neediest young people.

[The prepared statement of Ms. Holton follows:]

**Prepared Statement of The Honorable Anne Holton,  
First Lady of The Commonwealth of Virginia**

Chairman McDermott, Congressman Weller, other Members of the Committee, good morning and thank you for the opportunity to participate in this important hearing. I'm honored to be here and grateful for the opportunity to talk with you today about something close to my heart, America's foster care children.

Before my husband became Virginia's governor, I served as a Juvenile and Domestic Relations Court judge in Richmond, Virginia, a mid-size urban jurisdiction with a large foster care population. In that role I got to know some remarkable young people in foster care. They were striving mightily to become independent successful adults, but were finding out just how hard that is to do without strong family support.

In my years on the bench, I watched the Adoption and Safe Families Act of 1997 take hold in our community, and the results were impressive. We worked together across agency lines to ensure that no child should be in foster care longer than nec-

essary. From 1998–2005, our foster care population declined by 30%, our lengths of stay in care shortened also by 30%, and our adoptions from foster care increased literally tenfold—all without risking child safety and well-being.

One of the lessons I took from this is that change can happen, and that you at the federal level can be important instruments of change.

In my time on the bench, however, I saw that while we were making progress primarily with younger children, we were less successful in helping older kids in foster care. The older kids often have had some horrific experiences in their short lives and have behavioral challenges as a result. As a mother of teenagers, I can say with authority that teenagers are almost by definition challenging. People who are willing to open their hearts and homes to other children often are wary of taking on an older child.

But they are still children, and they still need and deserve families. Studies show that young people who age out of care at 18 or older without family—almost 25,000 kids do every year in America—will likely become homeless, incarcerated, or on welfare rolls within a few short years. They are less educated and less able to support themselves than their peers. And they have no family safety net to support them when—inevitably—they need it.

The good news is that these young people can be successful in families, and that government can be successful in finding and supporting permanent families for them. In my role as First Lady, I have recently launched an initiative called “For Keeps,” to work collaboratively to improve Virginia’s systems for finding and strengthening permanent families for older children in care or at risk of entering care.

As part of that effort, I have traveled around our Commonwealth meeting and listening to hundreds of young people, families and professionals involved in the child welfare system. I celebrated Adoption Day last fall in Danville, one of our rural communities, where a social worker supported by a state grant is successfully recruiting adoptive families for difficult-to-place children. I met there the new family of a 16 year old girl who had cerebral palsy and, when she first came to them, severe behavioral problems. The adoptive mother is a nurse, but in reality her whole extended family is adopting this girl. I learned about families who have adopted 14 and 15 year old boys who had previously been confined to residential treatment facilities—it took a lot of support and patience, but it is working. These young people now have much better prospects of successful adulthoods, and incidentally are no longer costing the state \$100,000 plus annually for their care.

Another lesson I have learned traveling across Virginia is that we can and must do better in providing supports for young people aging out of foster care. One consistent theme was the inadequacy of the support we give to 18-plus year olds in or formerly in foster care. One couple who had adopted two older boys told me of their concern that they wouldn’t be able to pay for college for them—they had saved for many years to provide for their biological children, but they now have an extra teenager aspiring to higher education for whom they had not planned. I heard of other young people who had lost their Medicaid when they got part-time jobs while they completed their schooling. Others talked of the need for more help with employment, transportation, and independent living skills. We know from sociological studies that young people in intact families do not magically become fully independent at age 18—in fact, the average age at which a young person typically last moves out of the family home in the United States is 26—8 years beyond when we effectively declare our foster kids able to care for themselves.

Before I close, I’d like briefly to suggest a few federal implications from my observations of our state child welfare systems.

- First, Title IV–E foster care resources have dwindled over the last decade because each year more foster children are excluded due to the look-back provisions that tie eligibility to whether their family would have qualified for AFDC under 1996 criteria! Verifying such Byzantine requirements also takes significant social worker time away from providing real services to children and families.
- Second, federal support for older children who can live permanently with relatives is currently prohibited, in spite of evidence of the cost effectiveness of subsidized guardianships.
- Third, federal support for the full range of services that could be provided to preserve families and prevent a child’s entry into foster care is severely limited. Because of this, agencies sometimes are forced to place children into care who might safely remain with their families with better support.
- Fourth, when children age out of foster care, they lose their health insurance coverage through Medicaid. Few are yet in a position to be employed in jobs

with health insurance, and unlike some of their peers, they have no opportunity for coverage through their families. Until the health insurance crisis is addressed more generally, Medicaid coverage for youth aging out of foster care should be extended to age 21 or higher.

- Finally, the federal government has an opportunity to encourage more effective research to guide the states in improving child welfare. As a JDR judge I often benefited from some of the great information on best practices programs generated as a result of federally-sponsored research in delinquency prevention. Good research in the foster care field is much scarcer—it can be hard to do well, but it is not impossible, and the federal government can and should play a more effective role in encouraging it.

Many of these and related federal policy concerns are effectively addressed in a National Governor's Association policy position on child welfare, which draws on the governors' considerable collective wisdom and experience in this field and contains their recommendations on how federal policies could better promote effective outcomes. I am attaching a copy and commend it for your consideration.

I thank you most humbly for your work on behalf of our nation's foster youth and for the opportunity to be with you here today.

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Chairman MCDERMOTT. Thank you very much. We encourage you to go out there and experiment, and bring us back the results.  
Ms. HOLTON. Thank you.

Chairman MCDERMOTT. We will next move to Mr. Cotton, who has spent 31 years on the ground, doing various things in the system. I think Mr. Porter would like to introduce him.

Mr. PORTER. Thank you, Mr. Chairman. I want to thank the whole panel for being here today, and especially my friend, Mr. Cotton.

As the Chairman mentioned, Mr. Cotton has been in the protection and advising and hands-on in the child protection system for 31 years. He has seen every aspect, from caseworker to child abuse investigator, hotline worker, child welfare supervisor, child protection manager, deputy director and director for State agencies in Illinois, Nevada, and New Jersey.

Most recently, Mr. Cotton headed the administrative case review project, investigating child welfare deaths in the State of Nevada, in Clark County.

Having worked with the child welfare system myself for many years, we had a challenge in Nevada, and that is we had a bifurcated system, where the State and the counties had separate systems. We combined those services a few years ago, and I think there is probably no one with better expertise in this field, and knowledge of what we can do to help our most precious resource, our children.

Probably most importantly, he has been a foster parent for 27 children himself. So, welcome, Mr. Cotton. We appreciate you being here.

**STATEMENT OF ED COTTON, CONSULTANT, HORNBY ZELLER ASSOCIATES, TALLAHASSEE, FLORIDA**

Mr. COTTON. Thank you, and Mr. Chairman, I appreciate the opportunity to address you. I will talk quickly.

I believe that, based on my reviews, plus my years of experience, that the child welfare systems designed to protect children from abuse and neglect, and assure that they attain permanency, simply are not accomplishing that at an acceptable rate right now.

This is despite some fairly stable funding over the past few years, and years of significant improvements between 1995 and 2003, I think, have leveled out, and in some situations, gone backward.

I do think that State agencies have a good core of workers, who need good leadership, and need good support from the legislature to move forward. I don't think it's just a funding issue, as you will see from reading my document.

I do want to talk about four different areas very quickly. There is much more detail in my document, but I want to talk about each part of the system, starting with hotlines.

Calls come into the hotline, they need to be staffed. When we called Nevada's hotline several times, or Clark County's, we found waits as long as 50 minutes. At no time did we wait less than 7 minutes. Many neighbors and others concerned about reporting child abuse are not going to sit in line 7 minutes. They're going to hang up, and may never report, and the kids could be hurt. So, hotlines need to be adequately staffed.

*Caseworkers.* Caseworkers and investigators go into homes that police consider to be the highest level of risk, domestic violence, family situations, police go in there armed. Our workers go in there, armed with their expertise and their social work skills, that's all. Hotlines can help, because if they know about criminal background activities in that home, it can make them decide to take a policeman along, or take other precautions.

Florida recently became the first State to require both State and national criminal background checks on every family that is being investigated—on the adults—before somebody goes out. Those are difficult negotiations, because that information is very confidential. I think the Federal Government could help make those negotiations easier for child welfare, by providing some strength, and knowing that information is necessary.

When we move beyond the hotline, initiation, going out to see families. When an investigation starts, kids need to be seen right away. What we found in Clark County, when we looked at are these kids being seen soon enough to make sure that they're safe, 31 percent of the cases we decided yes; 69 percent, nobody was out soon enough to even know if they were safe. We found death cases where a child was killed in a home, and nobody saw the siblings for lengthy periods of time, if ever, to make sure that they were safe.

Ten percent of the kids that were reported for abuse, a finding was made, the investigation was completed, and the kid is not ever being seen at all, which is very difficult to understand how that happened.

Over 60 percent of the kids were never interviewed privately, meaning they were asked if they were abused by mom, while they were sitting on the couch, next to mom, which is, of course, absolutely unacceptable.

Other issues around investigations, collateral contacts. Well, this means talking to a child's teacher, talking to other people involved, whether it be a day care person, neighbors or others. Again, even the person who made the report, what we found in our investigative review was 57 percent of the people who took the time to call

the hotline to report a child were never interviewed, were never asked what happened.

Given that there were delays in seeing the kids, when the investigator got there, bruises that were there were often gone and faded. They didn't bother to talk to the reporter to find out what it looked like when they saw them, and I think that's absolutely critical.

In only 17 percent of the cases we looked at, did we determine that they actually talk to enough people to even know whether the child had been abused or not, 17 percent. In 42 percent of the cases, no collateral was talked to at all; they simply made the finding, talking to the parent, and sometimes the child.

Other issues around the investigative process, it is also very difficult to find alternatives to removing children when we go out on cases because of the focus on funds for foster care, and some focus on investigations, there are few alternatives. We found workers taking kids into custody who could have been placed—or left home, with other services.

As mentioned earlier, Illinois went from over 50,000 children in care to about 23,000 in a matter of a couple of years, primarily because we gave investigators at the start of the investigation, access to immediate services to put in the home, to keep the children safe while they were at home.

The government demands reasonable efforts to prevent kids from placement, to access IV-E funds, but there aren't really any funds to do that. States and child welfare agencies are just told, "Do these placement prevention efforts," but there is not a lot of funds available to do that, and when there are, they're generally State funds.

I want to talk very quickly about substitute care, kids going into foster care. That was mentioned earlier. I think—and we're getting to the "Me Too" society, where there are fewer and fewer people willing to take care of other people's kids. I do think targeted recruiting is talked about a lot, particularly around the needs of kids, which I think is important, but I think there are large groups that could also be focused on. This includes empty nesters, who did a good job raising their own kids. Those haven't been adequately recruited.

Given that I'm out of time, I will mention one other thing. Workers—I let the workers speak. You will see—and we can provide information—I asked workers, "If you had \$1 million, what services would you buy that would help your caseload," and I have 85 of those. So, thank you.

[The prepared statement of Mr. Cotton follows:]

**Prepared Statement of Ed Cotton,  
Independent Consultant, Tallahassee, Florida**

Good morning Chairman McDermott and members of the Committee on Ways and Means, Subcommittee on Income Security and Family Support. I appreciate the opportunity to address this committee regarding the challenges facing the child welfare system.

My name is Edward E. Cotton. I have worked in the child welfare/child protection system for 31 years. I have been a caseworker, a child abuse investigator, a hotline worker, a child welfare supervisor, a child protection manager, a Deputy Director, and a Director for state agencies in Illinois, Nevada, and New Jersey. I have also worked as a caseworker and program manager for a private child welfare agency.

Additionally, I have served as a foster parent for 27 children, learning first hand how maltreatment devastates children and how inadequate system responses add to that devastation. I am currently doing consulting work for Hornby Zeller Associates.

The child welfare systems designed to protect children from child abuse and neglect, and to ensure that they attain a safe, permanent living situation are not accomplishing that task at an acceptable rate. After years of significant improvements between 1995 and 2003, progress has, for the most part, slowed. In some areas the situation for victims of child maltreatment has gone the other direction, despite several years of stable funding and much additional research identifying practices and policies that work. I believe that the systems need fixed in all areas, from the first call to an intake hotline through adoption. I base this opinion upon my experiences of being actively involved in directing child protection agencies in three states and providing consultation in three others. I also worked with the State Liaison Officers on child protection for several years. Additionally, I recently managed a case review of 1352 child welfare cases and 148 child protection investigations in Clark County, Nevada.

My remarks are organized around the major functions of a child welfare system—hotline/intake, investigations, in-home services, out-of-home care and services. I have not addressed adoption in this document. Improvements are needed in each of these areas. Too often reforms occur only as the result of a lawsuit. Since the lawsuits generally request changes that everyone would agree are essential to a well-functioning system, state child welfare agencies should be making these changes before going through costly and time-consuming lawsuits. Most state and county agencies have a strong core of dedicated caseworkers and child protection service workers, as well as a group of nurturing foster parents. The leadership of these agencies must build on that to accomplish the worthy goals of safety, permanency, and well-being.

#### **HOTLINE/INTAKE**

Most states have a centralized point of intake, usually through a child abuse hotline. These hotlines must be adequately staffed in order to ensure that every caller concerned about the abuse of a child is able to relate those concerns to an intake worker immediately. This is not occurring. Typically hotlines have an abandoned rate of 5–10%, but in some systems it is much higher. When a national panel of experts was brought together to study child deaths in Nevada, we heard many complaints about not being able to get through to the Hotline. This panel attempted to call the Hotline several times during the week, and the results were frightening. The quickest any call got answered was 7 minutes. Most calls took about 25 minutes to get answered, while the longest wait was about 50 minutes. My fear is that most neighbors, friends, and concerned citizens will not wait seven minutes on the phone (and certainly not 50 minutes); therefore, children remain at risk. Teachers cannot leave the classroom for 50 minutes to call in a report. In an attempt to address this issue, some states have implemented a message taking system. This means a staff person answers the call, but informs the caller that a message will be taken and the call will be returned later. This is not an acceptable response for a “Hotline”.

An additional issue with the hotlines is that there are no national standards as to who should be served by the CPS systems. Every state and, in some cases, individual counties, can decide what to investigate. Given the transience of families today, it can be very confusing when expectations are different from state-to-state. Callers providing information that does not meet the criteria for an investigation also leads to inconsistency around the country. These situations are often related to families in crisis, but maltreatment has not yet occurred. Some states screen these out and take no action at all, while others send a caseworker out to assess the situation and offer voluntary services. The latter is an excellent outlet for preventing child abuse before it happens, but there are no consistent funding streams for this activity.

Finally, the Hotline can help in keeping the child protection service workers safe. These workers go into highly volatile situations with nothing more than their professional skills. These are the same domestic/family violence situations that armed police officers find the most dangerous to intervene. Knowing whether the family members have a history of violent criminal behavior is essential in determining how to respond. Few states can access that information at the Hotline. The Florida Abuse Hotline recently became the first entity in the nation that conducts both state and national criminal background checks on every alleged perpetrator of child abuse before the report is sent to a local office for investigation. When a child protection services worker receives a new report, that worker is aware of the complete criminal history of the adults in the family.

### **Recommendations**

1. Establish national standards for abandonment rates at hotlines so that states are required to adequately staff them.
2. Provide guidelines to states regarding what situations should be investigated and which should be screened out.
3. Identify situations that don't meet the criteria for an investigation, but contain elements that usually result in future maltreatment. Design interventions and programs to address these situations, then fund them.
4. Mandate criminal background checks for all adult subjects of new reports. This will make it easier for state child welfare agencies to negotiate agreements with law enforcement agencies.

### **INVESTIGATIONS/IN-HOME SERVICES**

Once the Hotline accepts a report for investigation, what happens next varies greatly from state-to-state. In some states, including Nevada, the local office has the authority to decide that no investigation is warranted, so none is conducted. In others states the local office must complete an investigation on every report received from the Hotline; Illinois and New Jersey are in this category. This is an issue, as other factors may influence these determinations, such as current workload or the availability of an intake worker. The decision as to whether the state should intervene should be solely based on established criteria.

There are three primary areas of concern regarding investigations:

**Initiation:** This term refers to the time frame for a Child Protection Services (CPS) team to first make contact with the alleged victim of child abuse/neglect in order to make an assessment of the level of risk and to determine whether immediate protective actions are necessary. Around the country this can vary from “immediate” to “within 24 hours” to “within 3–10 days”. Clearly if a child has been alleged to have suffered abuse to the extent that government intervention is necessary, delays of more than 24 hours are unacceptable. But there are no federal repercussions for states that have policies that do not require a first contact within 24 hours or less. I propose that DHHS establish a national standard that CPS teams must attempt an initial contact with all alleged victims of child abuse/neglect within 24 hours of the call to the Hotline. Certain situations demand a more immediate response. A national workgroup should be formed to delineate which types of reports must require an immediate contact from CPS. Additionally, there must be mandates to interview the alleged victims privately (infants can be privately observed and checked for injuries). In Clark County, only 31.8% of the child abuse/neglect reports reviewed were appropriately initiated—this means that a CPS investigator saw the victim quickly enough to accurately assess safety. Nearly 10% of the alleged victims were never seen by CPS during the investigation and over 60% were never interviewed privately before the investigation was closed. Frequently the victim was interviewed while sitting next to the parent/alleged perpetrator.

**Investigative Process:** There is no mandated standard for collateral contacts that must occur before an investigation can be concluded. Collaterals include the reporter, the child's teacher or day care provider, the pediatrician, hospital staff, neighbors, and other family members. In the Clark County review, 57% of the people making the call to the Hotline were never contacted during the investigation. Teachers who saw bruises on children were never given the opportunity to describe them or recount the child's statements to a CPS worker. This is tragic because, as noted above, in many cases the late responses by CPS meant that the marks had faded or were gone altogether. In only 17% of the investigations reviewed did the CPS worker contact a sufficient number of collaterals to make accurate risk and safety assessments of the situations. Even more alarming is the finding that 42% of the investigations contained no collateral contacts at all—no one was interviewed to support or contradict the statements of the alleged perpetrator. When the lack of private interviews with the child victims (noted above) is paired with this information, it is clear that many investigations consisted of asking the alleged perpetrator what happened and accepting that as fact. Interestingly, 40% of the reports that were “Substantiated” had sufficient collateral contacts, while only 10% of the “Unsubstantiated” reports did. This leads one to believe that more reports would have been “Substantiated” if more collateral interviews had occurred, and more children would have been kept safe from subsequent abuse.

Safety Assessments and Risk Assessments are research-validated protocols that have been useful in assessing the immediate safety and long term risk to children. For these instruments to be effective, however, the CPS worker must gather enough information to accurately complete them. In the Clark County study, the vast majority of CPS workers completed the safety assessment, and most completed a risk as-

assessment. However, these forms were not of much value since the review determined that over 67% of the investigations did not contain sufficient information to make an accurate risk assessment; 54% of these investigations did not document enough information to complete valid safety assessments.

***In-home Protective Services:*** When a CPS worker has determined that a child has been abused or neglected and is at risk of further maltreatment, there must be immediate access to in-home services to prevent removal. In Clark County, CPS workers saw few alternatives to moving children from their parents when abuse or neglect had occurred. This is common throughout the country, as most services are related to children who have been placed in substitute care situations, such as foster care. However, in the late 1990's, the Illinois Department of Children and Family Services managed to reduce the number of children placed outside their parents' home from over 50,000 to about 23,000 without an increase in subsequent maltreatment to these children. A major factor in this success was that CPS workers were given access to a variety of placement prevention services—homemakers, intense family preservation, in-home parent training, family support workers, early childhood education, in-home substance abuse counseling and monitoring, and protective day care. There must be many “eyes watching” if abused children are left with their parents, but it can be done. Federal requirements mandate that reasonable efforts to prevent placement must occur in order for states to access IV–E funds, but funding for placement prevention programs has not been forthcoming.

In non-emergency situations, the CPS worker often passes the family to child welfare worker to provide in-home services. What happens at that point varies greatly. States have various standards for requiring visitation, service provision, and comprehensive assessments. Many times these are arbitrary—a 12 year old with minor neglect issues must be seen as frequently as an infant at high-risk. Even when standards exist, there is often a lack of monitoring. In Clark County, we found that 51% of the children who were victims of abuse but had not been removed from their home had not been seen within the past 30 days, and more than 17% had not been seen for more than 2 months. Frequency of contacts by the caseworker was also a major concern. Nearly 30% of these children had been seen fewer than 6 times in the preceding year, and only 42% had been seen at least 9 times during that year, despite the fact that a requirement for monthly contacts existed. There are many studies that document that the frequency of caseworker contact is the most important factor in preventing re-abuse of children.

#### **Recommendations**

1. Establish a national mandate that, whenever a child abuse/neglect report is received, the CPS investigative team must attempt to contact the alleged victim and assess for safety within 24 hours of the call.
2. Form a national workgroup to better identify which situations require an immediate CPS response.
3. Mandate collateral contacts on every investigation. The number and type of contacts should be dependent upon the maltreatment type.
4. Provide specific funding for in-home services that can lead to placement prevention.

#### ***CHILDREN PLACED IN SUBSTITUTE CARE (OUT OF PARENT HOME)***

Once children are removed from their parents, there are three primary options: kinship care, foster care, or shelter placements. Too often children are first taken to a shelter where they remain for anywhere from a few days to a year or more. In Clark County, children are taken to the shelter even when foster homes have openings. This is not uncommon throughout the country, as after hours workers often do not have immediate access to foster home availability or information regarding the type of children each home is appropriate for. Even well-staffed, comfortable and safe shelters are not family settings, leading to additional trauma for children already faced with separation from their parents.

As more and more children need to be placed into state custody due to parental abuse and neglect, it seems that fewer and fewer people are willing to care for the children of others. Self actualization and “me-first” attitudes have greatly impacted the number of qualified foster parent applicants. At the same time, the children are entering the system with many more complex issues and problems than in past years. Foster parents are often not trained to address severe attachment disorder, post-traumatic stress syndrome, and many other ailments that result from critical abuse and neglect and a lack of parental nourishment at a young age. In a sense, it's a “buyer's market”—foster parents can give up on problem children and have them removed because they know there are many more available. Although raising foster care rates can have a positive effect, it also has resulted in inappropriate peo-

ple deciding to become foster parents for the money. This negatively impacts the public's view of the good foster parents and adds to the problem.

Many states have attempted to address this issue by making extensive use of relative placements. This practice has met some success in that the children often are placed with someone they already know, so the separation from their parents is less traumatic. It also makes visitation and continuity of relationships easier, thereby increasing the likelihood that the children will be reunified with their parents.

However, the use of relatives has resulted in several problems. Similar to foster parents, most relatives are not equipped to handle children with severe behavioral, physical, or emotional problems. Many of these relatives are very resistant to training, feeling that they already know how to parent. It is a great concern that many children are placed with grandparents who receive no training at all. The issue must be raised that often these grandparents, who avoid training because they "raised their own children", have many times raised children who are dysfunctional—substance abusers, perpetrators of domestic violence, violent criminals, child abusers, or those who abandon their babies. Child welfare agencies must ask this question—why are we expecting a different outcome with the grandchildren? What are the grandparents going to do differently with the grandchildren so that they don't end up with the same problems as their parents? While we can acknowledge that "blood is thicker than water", we must also address the fact that often "the apple doesn't fall far from the tree".

I am not saying that relative placements should be eliminated, but rather that states should carefully assess each relative placement and demand that the caregiver receive appropriate training and oversight. We must ensure that these kids are not coming back into the child welfare system at a later date, with many more problems related to rejection and lack of nurturing. A great deal of state and federal money is spent on relative placements, but the regulation of such placements needs strengthening in order to make sure that every child removed from his parents is given a healthy, stable living environment.

Foster parenting can be improved in two significant ways. Extensive, targeted recruiting that identifies specific groups of people for specific children. Older adults who have successfully raised their children (empty nesters, for example) are not actively recruited and could make a big difference in providing good role models and safe homes. Competency-based training for foster parents that certifies each home for the types of children that are appropriate is essential. Substance exposed infants should not be placed with foster parents who have not been trained on apnea monitors, the effects of withdrawal from drugs or alcohol, and the appropriate techniques for calming and assisting these children.

Tracking foster home competencies and availability is another issue that needs addressing. In nearly every jurisdiction, there are foster parents who have had available beds for months (or years) and no one has contacted them even though they read media stories that the state is desperate for foster homes. Although sometimes the available homes don't fit the needs of the children needing placement, that explanation can account for only a small portion of these situations. As a foster parent, I was often called about children needing placement despite the fact that I was at my maximum licensed capacity. At other times, I had "vacancies" for months and received no calls, despite children being maintained in shelters and emergency placements. Foster parents across the country repeat this same

The service provisions delivered through child welfare services are often not conducive to obtaining permanency for children. Visitation with their parents and siblings is sporadic. Services that do exist often have long waiting lists or are inaccessible to parents without transportation. Caseworkers with huge caseloads are forced to prioritize and handle only the most high-risk cases. As low- and mid-level risk cases deteriorate, the caseworker doesn't notice because there has been inadequate contacts with the children and their families.

In Clark County, more than a quarter of the children in substitute care (who are the county's legal responsibility) had not been seen for more than 60 days. Only 44% has been seen within the past 30 days as required. The situation was even worse when the worker's contact with the parents is analyzed. More than half of the parents had not been seen for over 60 days. These are the people that the caseworker is allegedly working with to attain reunification. Frequency of visits with children was also a problem—nearly 40% of the children in care had been seen fewer than 6 times during the preceding year, and only 33% had been seen 9 or more times. Private interviews between the caseworker and the children had occurred in only 23% of the cases reviewed. Many caseworkers expressed an attitude that the children in foster homes or the shelter are safe and don't need to be seen regularly. This conclusion is widespread, despite several recent high profile foster parent

abuse cases (including a death) and a situation where a 3 year old foster child has been missing for 11 months.

Case plans are critical for outlining goals and tasks necessary to safely return children home. There is no universally accepted format for these. In Clark County, only 50% of the children in substitute care had a current case plan. Many plans included children who had died (but were still identified as “safe”), parents who disappeared long ago, and siblings who were already adopted and no longer part of the family.

### **Recommendations**

1. Increase foster parent recruiting, including targeting people who are skilled at working with children who have the types of issues we see everyday. Also focus on categories of people noted above, who have not been actively recruited in the past.
2. Ensure that the annual reviews of foster homes include analyses of children who were “kicked out” by the foster parents so that children with similar problems are not placed there in the future.
3. Require states to establish standards for kinship care placements that include training and monitoring.
4. Reward good foster parents; increase rates based upon successfully completing goals.
5. Reduce case loads to standards of 15 families per worker.
6. Require annual reviews to identify cases that should be closed.

### **CONCLUSIONS**

Five big issues must be continually addressed if child welfare systems are to live up to the expectations that led to their creation.

**Accountability.** Self-policing has not been particularly productive, as the Child and Family Service Reviews (CFSR) and several lawsuits have identified problems that states either weren’t aware of and took no actions to resolve. Consistent external reviews, designed not to harass states, but instead to help create improvements, are a must. The CFSRs are a start, but we must move beyond them to focus more on quality issues. The fact that child protection workers see a child within 24 hours is important, but it is equally important to ensure that these workers are gathering sufficient information to complete safety and risk assessments. Supervisors must know whether there are children in the system who have not been seen for months. In the Clark County review, we asked 10 caseworkers that, if they had children on their caseload who hadn’t been seen for three months, would their supervisor know. Everyone said “no”.

**Caseloads.** Standards established by various child welfare groups should be analyzed and a national standard created. However, these must be monitored to ensure that cases are not being kept open without any service or protective need. In Illinois, all in-home family cases were reviewed and nearly 40% were determined to be no longer in need of services. This is a tremendous waste of resources, as caseworkers were still required to visit them regularly.

**Quality Work.** There must be minimum standards regarding all facets of child welfare/protection work, and they must be enforced. This includes collateral contacts for investigations, interviewing with the reporters, visitations with children on open cases, private interviews with children, and criminal background checks. DHHS should take the lead in providing models for comprehensive assessments, safety assessment protocols, and family risk assessments.

**Performance Based Contracts.** Private agencies providing services to children in state custody must be paid based upon successful performance. Those agencies that take many children, but rarely help them attain permanency through adoption or reunification, must be improved or their contracts must be revised or cancelled. Agencies that perform well should be rewarded with better rates. These same standards should be applied to state and county CPS teams to ensure that they are providing quality care.

**In-Home Services.** As noted earlier, the best way to achieve permanency for children is to never remove them from their parent’s home. In order to safely do this, in-home services must be greatly increased. Federal funds for services must be flexible so that the focus is not primarily on children already removed from their home.

We cannot let our state child welfare agencies become stagnant. There has been a great deal of research and hard work to improve the systems, but I believe the enthusiasm is starting to wane. Both the state and federal government entities must ensure that child welfare agencies don't lose their sense of urgency.

Thank you for your time.

Chairman MCDERMOTT. What was that?

Mr. COTTON. I asked caseworkers in Clark County, during our review, every one of them, "If you had \$1 million to spend for services for the families on your caseload, to make you better able to serve them, what would you spend it on?" I got 85 different responses. Things that, normally, managers sitting around a room would think of some of them, not others.

Chairman MCDERMOTT. Thank you. We will now turn to Ms. Ashby, who is a director of the education and workforce issues at the General Accounting Office. We asked you to do a study last year, and we would love to have you talk about it today.

**STATEMENT OF CORNELIA M. ASHBY, DIRECTOR OF EDUCATION, WORKFORCE AND INCOME SECURITY, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Ms. ASHBY. Good morning. Mr. Chairman, and members of the Subcommittee, I am pleased to be here today to present information from our recent reports on the challenges facing State child welfare agencies. My testimony this morning will focus on the challenges that states reported as most important to resolve to improve outcomes for children, State initiatives addressing these challenges, and Federal efforts to assist State child welfare disaster planning.

State child welfare agencies reported that inadequate levels of mental health and substance abuse services for children and families, high child welfare caseloads, and difficulty finding homes for children were among the most important challenges to resolve to improve outcomes for children.

These agencies reported the underlying reasons for inadequate services: funding constraints; and some caseworkers and families' lack of awareness of existing services offered by public and private providers.

In prioritizing funding needs, child welfare officials in 40 states reported the family support services, such as those that could prevent removal of a child, or help with reunification of a family, were the services most in need of greater resources. State child welfare officials also cited the need for additional information to help link children and families with needed services.

High caseloads were most frequently reported by child welfare officials in 34 states as an underlying source of dissatisfaction that affects their ability to recruit and retain caseworkers. Some states did not have caseload standards to ensure that caseworkers had enough time to adequately serve each child and family. Caseworkers, in some areas of most states, often carried more than double the recommended maximum caseload.

More than two-thirds of the State child welfare agencies identified serving children with special needs, and recruiting and retaining foster and adoptive parents as factors underlying the challenge to find appropriate homes for children. Due to the absence of high-

quality, therapeutic settings, State child welfare officials said that it has become increasingly difficult to place children with special needs in homes that can appropriately address their individual needs.

They also told us that recruiting and retaining foster and adoptive parents has become increasingly difficult, in part, because of a lack of a racially and ethnically diverse pool of potential foster and adoptive parents, and inadequate financial support.

In addition to these longstanding and continuing challenges, State child welfare officials also identified three emerging challenges that are likely to affect the well-being of children in the child welfare system over the next 5 years: changes in the type and location of drug abuse underlying maltreatment cases; increasing demand to provide care for special needs children; and changing demographic trends that will require greater multi-cultural sensitivity in providing services to some groups of children and their families.

While states reported implementing various initiatives to improve child outcomes, these initiatives did not always address those factors states reported as most challenging. For example, states frequently reported that they were challenged by the lack of mental health and substance abuse services for children and families. Yet, only four states reported having initiatives to improve the level of these services.

This may be because these services are typically provided outside the child welfare system by other agencies. Similarly, while almost all states reported implementing initiatives to improve their ability to find homes for children, only four states reported initiatives to find appropriate homes for children with special needs.

With respect to State child welfare disaster planning, HHS and the congress have taken several steps to ensure that states develop plans to serve children and families displaced by disaster. HHS has addressed states' reported need for Federal planning assistance, as well as recommendations we made in our July 2006 report, by updating disaster planning guidance, providing technical assistance, and asking states to voluntarily submit copies of their disaster plans for review.

Further, the Child and Family Services Improvement Act of 2006 established a legislative requirement for states to submit child welfare disaster plans to HHS that prepare for displacement of children.

In conclusion, resolving states' child welfare challenges has been difficult, in part, due to the child welfare system's heavy reliance on various non-dedicated funding streams at the Federal and State levels that require an inter-agency approach to establish appropriate priority and funding for child welfare families across different programs and populations.

As funding fluctuates or declines, full awareness of resources outside the child welfare system become increasingly important. Accordingly, we recommended in our October 2006 report that the Secretary of HHS improve awareness of and access to various social services funded by the Federal Government.

Although HHS disagreed with our recommendation, we continue to believe that its implementation would allow caseworkers and

others to more easily identify services and service providers funded by Federal agencies in closest proximity to the families they serve.

This completes my prepared statement. I would be happy to answer any questions.

[The prepared statement of Ms. Ashby follows:]

**Prepared Statement of Cornelia M. Ashby, Director of Education,  
Workforce and Income Security, U.S. Government Accountability Office**

Mr. Chairman and Members of the Committee:

I am pleased to be here today to present information from our recent reports on the challenges that state foster care systems face in serving the more than half a million children under their care.<sup>1</sup> For fiscal year 2006, Congress appropriated about \$8 billion to support the ability of state child welfare systems to provide services that protect children from abuse and neglect, promote their physical and mental well-being, find them permanent homes, and enable families to successfully care for their children. State and local governments contributed more than \$12 billion for these purposes, according to information available from 2004.<sup>2</sup> Despite this substantial investment, federal evaluations of state child welfare programs showed that states continue to struggle to meet federal outcome goals established by the Department of Health and Human Services (HHS) to ensure the safety, well-being, and permanency of children in foster care. Ensuring these outcomes becomes even more difficult in the event of disasters such as Hurricanes Katrina and Rita for states that do not have plans in place to continue child welfare services for children and families who may become displaced within or across state lines.

State child welfare agencies are responsible for administering their programs within federal policies established by the Children's Bureau under the Administration for Children and Families within the Department of Health and Human Services. This federal agency oversees states' child welfare programs in part through its child and family services reviews (CFSR), which measure states' performance in meeting federal outcome goals. During its first round of CFSRs, completed in the 3 year period ending March 2004, HHS reported that no state had substantially conformed with all federal performance goals, and half or more states did not meet performance indicators such as providing adequate services for children and families, providing child welfare staff with the ongoing training needed to fulfill their duties, and ensuring the diligent recruitment of foster and adoptive homes. Further, while HHS requested states to submit plans that address the challenges of serving child welfare families in times of disaster, we reported that as of July 2006, few states had comprehensive plans in place. Since our reports, HHS and the Congress have taken action to help states address some of these long-standing challenges and HHS has begun its next round of CFSRs. My testimony today will focus on (1) the issues that states reported as most important to resolve now and in the future to improve outcomes for children under their supervision, (2) initiatives states reported taking to address these issues and how recent law provides support for additional state efforts, and (3) federal action taken to assist states' efforts in developing child welfare disaster plans. My testimony is based primarily on findings from our July and October 2006 reports. Those findings were based on multiple methodologies including a survey of child welfare directors on challenges they face in improving outcomes for children and the extent that they had developed child welfare disaster plans. We supplemented these surveys by conducting multiple site visits to states and counties and by interviewing child welfare experts and HHS child welfare officials. We conducted our work in accordance with generally accepted government auditing standards.

In summary, states reported that inadequate levels of mental health and substance abuse services, the high average number of child welfare cases per worker, and the difficulty of finding homes for children with special needs were the most important challenges to resolve in order to improve outcomes for children under states' care. Child welfare officials cited various reasons these challenges existed in their states. One reason maintaining an adequate level of services is difficult, for

<sup>1</sup>GAO, Child Welfare: Improving Social Service Program, Training, and Technical Assistance Would Help Address Longstanding Service-Level and Workforce Challenges, GAO-07-75 (Washington, D.C.: Oct. 6, 2006), and GAO, Child Welfare: Federal Action Needed to Ensure States Have Plans to Safeguard Children in the Child Welfare System Displaced by Disasters, GAO-06-944 (Washington, D.C.: July 28, 2006).

<sup>2</sup>The Urban Institute, The Cost of Protecting Vulnerable Children V: Understanding State Variation in Child Welfare Financing (Washington D.C.: May 2006).

example, is that the funding for family support services has not kept up with the need, which in turn may result in children entering foster care and staying there longer. Some states did not have caseload standards to ensure that caseworkers had enough time to adequately serve each child and family, and caseworkers in some areas of most states often carried more than double the caseload standard established by the Child Welfare League of America (CWLA).<sup>3</sup> State child welfare officials predict that these caseloads will continue to become increasingly complex and culturally diverse. Growing challenges for state child welfare systems in the next 5 years were cited as serving the population of children with special needs or who have been exposed to illegal drugs, and changing demographic trends that will require greater multicultural sensitivity in providing services to some groups of children and their families. States have some initiatives in place to address challenges, but the frequency of initiatives states reported did not always mirror the levels of dissatisfaction with the major challenges. For example, 4 of 39 states dissatisfied with the level of service in finding homes for children with developmental disabilities or other needs reported initiatives in this area. Recently enacted legislation, the Child and Family Services Improvement Act of 2006,<sup>4</sup> assists states in addressing some important challenges by targeting funds to children affected by substance abuse and to activities designed to recruit and retain caseworkers. Our October report had recommended that HHS also take action to improve awareness of and access to federal social services by such means as modifying the Catalog of Federal Domestic Assistance. In its comments, however, HHS disagreed with this recommendation, stating that it was insufficient to address the problem and incorrectly implied that caseworkers were not already aware of existing resources. We continue to support the recommendation based on the results of our work. HHS has taken action along with the Congress to better ensure that states are planning for the challenges they will face in safeguarding children and families displaced by disaster, per our July report recommendations. HHS has updated its guidance and provided technical assistance. In addition, the law now requires all states to submit child welfare disaster plans to HHS. The deadline set by HHS for submission of these plans is June 30, 2007.

### Background

The well-being of children and families has traditionally been understood as a primary duty of state governments, and state and local governments are the primary administrators of child welfare programs designed to protect children from abuse or neglect. Child welfare caseworkers investigate allegations of child maltreatment and determine what services can be offered to stabilize and strengthen a child's own home. If remaining in the home is not a safe option for the child, he or she may be placed in foster care while efforts to improve the home are made. In these circumstances, foster care may be provided by a family member (this is known as kinship care), caregivers previously unknown to the child, or a group home or institution. In those instances in which reuniting the child with his or her parents is found not to be in the best interest of the child, caseworkers must seek a new permanent home for the child, such as an adoptive home or guardianship. Some children remain in foster care until they "age out" of the child welfare system. Such children are transitioned to independent living, generally at the age of 18 years.

States use both dedicated and nondedicated federal funds for operating their child welfare programs and providing services to children and families. In fiscal year 2006, the federal government provided states with about \$8 billion in dedicated child welfare funds, primarily authorized under Title IV-B and Title IV-E of the Social Security Act. Nearly all of this funding is provided under Title IV-E, which provides matching funds to states for maintaining eligible children in foster care,<sup>5</sup> providing subsidies to families adopting children with special needs, and for related

<sup>3</sup> CWLA is an association of nearly 800 public and private nonprofit agencies with a mission to ensure the safety and well-being of children and families. CWLA sets and promotes standards for best practice and advocates for the advancement of public policy.

<sup>4</sup> Pub. L. No. 109-288.

<sup>5</sup> States are entitled to Title IV-E reimbursement on behalf of children who would have been eligible for Aid to Families with Dependent Children (AFDC) (as AFDC existed on July 16, 1996), but for the fact that they were removed from the home of certain specified relatives. While the AFDC program was replaced by the Temporary Assistance for Needy Families Program in 1996, eligibility for Title IV-E payments remains tied to the income eligibility requirements of the now defunct AFDC program. In addition, certain judicial findings must be present, and all other requirements included in section 472 (a) and (b) of the Social Security Act must be met, in order for the child to be eligible for Title IV-E foster care maintenance payments.

administrative and training costs.<sup>6</sup> About 9 percent of funding is provided under Title IV–B, which provides grants to states primarily for improving child welfare services and requires that most funds be spent on services to preserve and support families.

A significant amount of federal funding for child welfare services also comes from federal funds not specifically dedicated to child welfare—including the Temporary Assistance for Needy Families (TANF) block grant, Medicaid, and the Social Services Block Grant. These and hundreds of other federal assistance programs for children and families, including many that serve low-income populations, are listed in a centralized database administered by the General Services Administration that has a search feature by type of assistance and eligible population. The Congressional Research Service conservatively estimated that the median share of total federal child welfare spending derived from nondedicated federal funding equaled nearly half of all the federal dollars (47 percent) expended by state child welfare agencies,<sup>7</sup> based on state child welfare agency data reported to the Urban Institute for state fiscal year 2002.<sup>8</sup>

The Congress has authorized funds for state child welfare programs and required states to enact policies and meet certain standards related to those programs. HHS evaluates how well state child welfare systems achieve federal standards for children through its child and family services reviews. The CFSR process begins with a state assessment of its efforts, followed by an on-site review by an HHS team that interviews various stakeholders in the child welfare system and usually reviews a total of 50 child welfare case files for compliance with federal requirements. After receiving the team’s assessment and findings, the state develops a program improvement plan (PIP) to address any areas identified as not in substantial conformity with federal requirements. Once HHS approves the PIP, states are required to submit quarterly progress reports. Pursuant to CFSR regulations, federal child welfare funds can be withheld if states do not show adequate PIP progress, but these penalties are suspended during the 2-year PIP implementation term. HHS conducted its first round of CFSRs for all states from March 2001 through March 2004 and began the second round of CFSRs in March 2007.

States must also meet a set of program requirements that are described in their 5-year Child and Family Services Plans to receive federal child welfare funds.<sup>9</sup> Until recently, however, there were no federal requirements for states to develop plans that address the needs of children during disasters. In 2005, 29 states and Puerto Rico experienced federally declared disasters—most commonly severe storms and flooding. However, a disaster can affect states that do not directly experience the disaster when they receive children evacuated from affected states. For example, two 2005 disasters—Hurricanes Katrina and Rita—resulted in a prolonged interruption of child welfare services and the dispersion of thousands of Louisiana’s child welfare recipients to 19 states.

### **Current and Future Issues That Challenge States’ Ability to Improve Child Outcomes**

States reported that their ability to improve child outcomes was challenged most by inadequate levels of mental health and substance abuse services available to children and families, too few caseworkers for too many child welfare cases, and a lack of homes that can meet the needs of certain children, such as those with developmental disabilities. Challenges are expected to grow in future years related to serving children with special needs or who have been exposed to illegal drugs, and changing demographic trends that will require greater multicultural sensitivity in providing services to an increasingly diverse child welfare population.

### **Inadequate Levels of Mental Health, Substance Abuse, and Other Services Challenge States’ Ability to Meet the Needs of Children and Families**

State child welfare agencies identified specific services underlying their challenge to serve children and families, citing constraints on federal funding, service gaps, and limited awareness of services outside the child welfare system as contributing

<sup>6</sup>Title IV–E also provides grants to states for providing independent living services to youth who are expected to age out of foster care or who have already aged out of care. Grants are also provided to states for providing education and training vouchers for youth aging out of care.

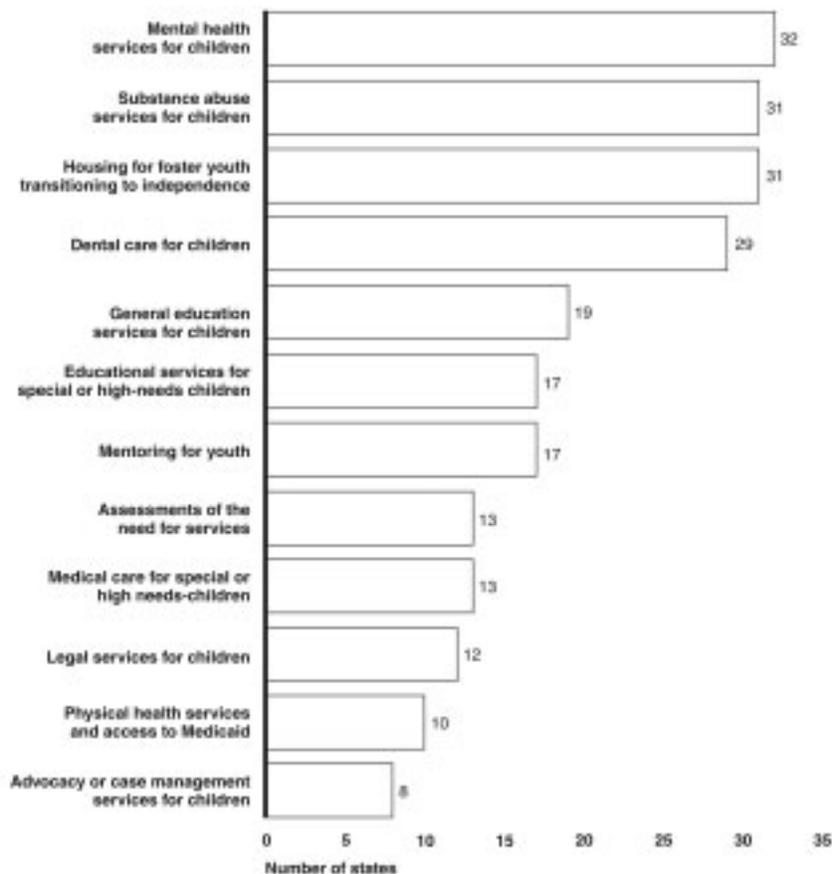
<sup>7</sup>States’ use of nondedicated federal funding varied considerably from a high of 75 percent of total federal child welfare funds expended in Alabama to less than 2 percent of total federal child welfare funds expended in North Carolina.

<sup>8</sup>The Congressional Research Service reported that this is likely an understatement of nondedicated federal funding states used for their child welfare programs.

<sup>9</sup>States were required to develop and submit a 5 year Child and Family Services Plan for fiscal years 2005–2009, by June 30, 2004.

factors. Regarding services provided to children, more than half of states reported that they were dissatisfied with the level of mental health services, substance abuse services, housing for foster youth transitioning to independence, and dental care. (See fig. 1.)

**Figure 1. States Reporting Dissatisfaction with the Level of Services Provided to Children in the Child Welfare System**



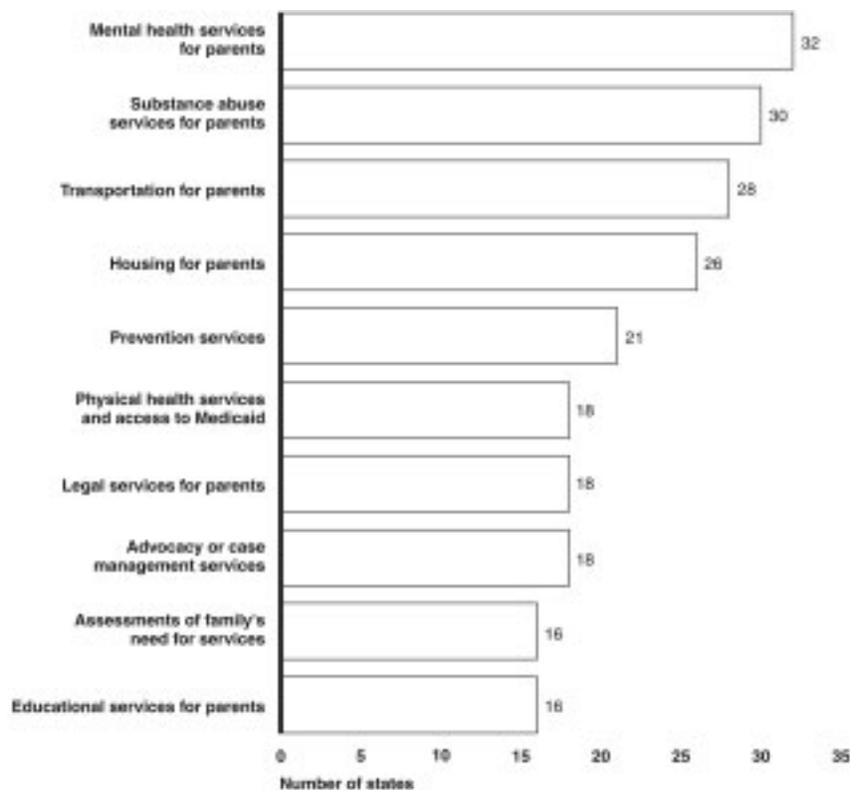
Source: OAG analysis of state child welfare survey responses.

States also reported that they were dissatisfied with the level of services provided to at-risk families in the child welfare system. These services are needed to help prevent the removal of children from their homes or to help facilitate the reunification of children with their parents after removal. Specifically, more than half of states responded that they were dissatisfied with mental health services, substance abuse services, transportation services, and housing for parents in at-risk families. (See fig. 2.)

States we visited reported that funding constraints were among the reasons maintaining an adequate level of services was difficult. For example, while maintenance payments to foster families for children under state care are provided as an open-ended entitlement for federal funding under Title IV-E, federal funding for family support services is capped at a much lower level under Title IV-B. In addition, many states experienced budget deficits that adversely affected overall funding for social services. In prioritizing funding needs, child welfare officials in 40 states responding to our survey reported that family support services, such as those that could prevent removal of a child or help with reunification of a family, were the

services most in need of greater federal, state, or local resources. Officials from 29 states responded that child protective services such as investigation, assessment of the need for services, and monitoring were next in need of additional resources.

**Figure 2. States Reporting Dissatisfaction with the Level of Services Provided to Parents in At-Risk Families in the Child Welfare System**



Source: GAO analysis of state child welfare survey responses.

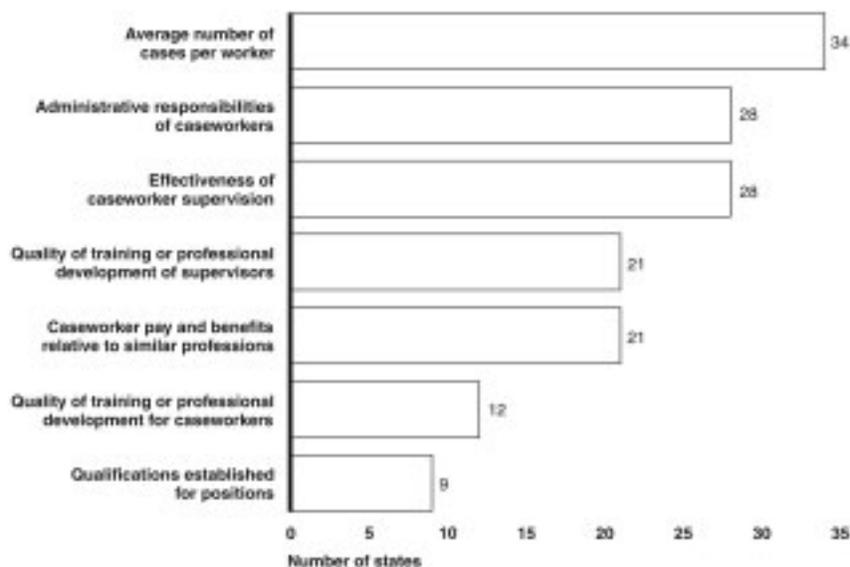
Another reason providing services may be challenging in some states or areas is that some caseworkers and families may be unaware of the array of existing services offered by numerous public and private providers. In North Carolina, for example, state officials reported that about 70 percent of children and families in the child welfare system received services from multiple public agencies, and the Catalog of Federal Domestic Assistance (CFDA)—a repository of information on all federal assistance programs that is periodically updated—lists over 300 federal programs that provide youth and family services. However, caseworkers and families are not always aware of the range of services that are available to support children and families, and child welfare officials cited the need for additional information to help link children and families with needed services. In October 2003, the White House Task Force for Disadvantaged Youth recommended that the CFDA be modified to provide a search feature that can be used to identify locations where federally funded programs were operating.<sup>10</sup>

<sup>10</sup> A similar model may be found on an HHS Web link, <http://ask.hrsa.gov/pc/>, where users can enter a ZIP code to find the closest community health center locations offering medical, mental, dental, and other health services on a sliding fee scale.

### High Caseloads and Other Factors Challenge the Ability of Child Welfare Staff to Adequately Serve Children and Families

State child welfare officials most frequently reported dissatisfaction with the current status of three underlying factors that affect the state's ability to recruit and retain caseworkers to serve children and families in the child welfare system. Specifically, more than half of the states reported dissatisfaction with the average number of cases per worker, administrative responsibilities of caseworkers, and effectiveness of caseworker supervision. (See fig. 3.)

**Figure 3. States Reporting Dissatisfaction with Factors That Could Affect the State's Ability to Recruit and Retain Caseworkers**



Source: GAO analysis of state child welfare survey responses.

Child welfare officials in each of the states we visited reported having trouble recruiting and retaining caseworkers because many caseworkers are overwhelmed by large caseloads. According to the Child Welfare League of America, some child welfare programs lack caseload standards that reflect time needed to investigate allegations of child maltreatment, visit children and families, and perform administrative responsibilities. CWLA set caseload standards of no more than 12 cases per caseworker investigating allegations of child maltreatment, and no more than 15 cases for caseworkers responsible for children in foster care. However, according to CWLA, in most states, average caseloads in some areas are often more than double the CWLA standards.

State child welfare officials we interviewed also reported that increasing amounts of time spent on administrative duties made it difficult to recruit and retain staff and limited the amount of time caseworkers could spend visiting families. For example, child welfare officials in three states we visited estimated that some caseworkers spent a significant amount of time on administrative duties such as entering case data in automated systems, completing forms, and providing informational reports to other agencies. This administrative burden has limited caseworker ability to ensure timely investigations of child maltreatment and to make related decisions concerning the removal of children from their homes, according to officials, and influenced caseworker decisions to seek other types of employment.

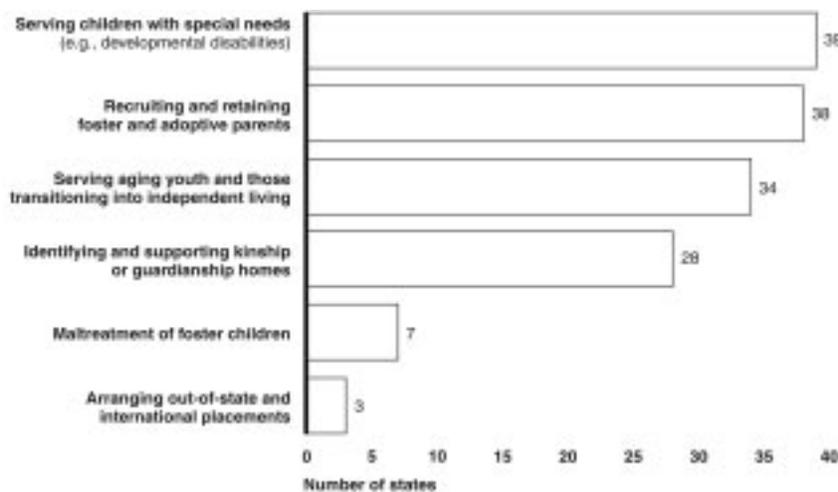
Some states we visited reported that the lack of effective supervision also adversely affected staff retention and sometimes resulted in delays providing appropriate services to children and families. Lack of supervisory support was cited as a problem in terms of supervisor inexperience and inaccessibility. For example, a Texas state official said that because of high turnover, caseworkers are quickly promoted to supervisory positions, with the result that the caseworkers they supervise complain of poor management and insufficient support. In Arizona, caseworkers

have also expressed dissatisfaction with the support they received from their supervisors, and this has negatively affected recruitment and retention. Child welfare officials reported that lack of access to supervisors was frustrating to caseworkers because it delayed their ability to specify appropriate permanency goals for children and to develop case plans to meet the needs of children and families in their care.

**Serving Children with Special Needs Is among Factors Challenging States' Ability to Place Children in Appropriate Homes**

State child welfare officials most frequently identified four factors underlying the challenge to find appropriate homes for children. (See fig. 4.) More than half of the states reported that finding homes for children with special needs, recruiting and retaining foster and adoptive parents, serving older youth and those transitioning into independent living, and finding and supporting kinship or guardianship homes were among their greatest concerns.

**Figure 4. States Reporting Factors of Greatest Concern in Making Appropriate Placements for Children**



Source: GAO analysis of state child welfare survey responses.

Child welfare officials in two states we visited said that the lack of therapeutic foster care homes that can properly care for children who have significant physical, mental, or emotional needs makes it challenging to find them an appropriate home. In addition, these officials said that some of the existing facilities are inappropriate for child placement because they are old and in poor condition or provide outmoded treatment services. Because of the absence of high-quality therapeutic settings, child welfare officials said that it has become increasingly difficult to place children in homes that can appropriately address their individual needs.

Recruiting and retaining foster and adoptive parents has become an increasingly difficult aspect of placement for a variety of reasons, such as the lack of a racially and ethnically diverse pool of potential foster and adoptive parents, and inadequate financial support. For example, child welfare officials said that some locations have relatively small populations of certain races and ethnicities, making it difficult to recruit diverse foster and adoptive parents.<sup>11</sup> Inadequate financial support also hinders recruiting and retaining foster and adoptive families. Financial support for foster and adoptive families varies widely among states and local areas, and may

<sup>11</sup> Generally, states and other entities that receive federal financial assistance and are involved in adoption or foster care are prohibited from delaying or denying the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved. 42 U.S.C. § 671(a)(18). However, HHS guidance recognizes that some children may have specific needs based on the child's race or ethnicity, and HHS has required that states put in place a process for ensuring the diligent recruitment of potential foster and adoptive families that reflects the ethnic and racial diversity of children needing homes.

not keep up with inflation. According to a California child advocacy organization, for example, the state's payments to foster parents of \$450 per month per child have not been adjusted for inflation since 2001. As a result, according to the organization, the supply of foster care providers has not increased markedly during this time.

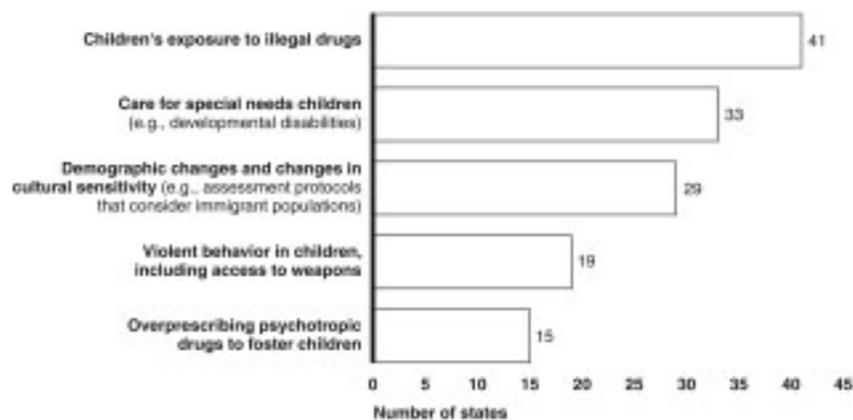
Obtaining permanent homes for older youth and for youth aging out of foster care is a continuing placement challenge for states. For example, Texas child welfare officials said that it is difficult to place adolescents with adoptive parents because older youth can choose not to be adopted. Finding housing for youth transitioning into independence also can be difficult in high-cost areas or in areas where special arrangements have not been made with housing agencies and landlords that typically require a cosigner on the rental application or a large deposit before moving in.<sup>12</sup>

More than half of the states also reported that limitations in their ability to identify and support placements with family members or legal guardians limited opportunities to place children in appropriate homes. For example, child welfare officials in Ohio reported a lack of resources to conduct outreach to family members that may be able to provide a stable home for children in foster care with less disruption to the child. Michigan officials also reported that the lack of financial resources made it difficult for the state to meet its placement goals for those children who had been removed from their home and who had been directed by the court to be placed with other family members.

#### **Increasing Complexity and Diversity of Child Welfare Population Expected to Challenge States in the Future**

While states have experienced child welfare challenges for many years, states identified several emerging issues that are of increasing concern because of their impact on the well-being of children in the child welfare system. Most states reported a high likelihood that three issues will affect their systems over the next 5 years: children's exposure to illegal drugs, caring for special or high-needs children, and changing demographics and cultural sensitivities. (See fig. 5.)

**Figure 5. State-Reported Emerging Issues That Are Likely to Affect Children in the Child Welfare System over the Next 5 Years**



Source: GAO analysis of state child welfare survey responses.

Although the overall percentage of drug-related child welfare cases has not increased, officials in the states we visited reported that the type and location of drug abuse underlying maltreatment cases is changing, requiring increased attention by child welfare agencies in certain areas. For example, child welfare officials reported an increasing number of children entering state care as a result of methamphetamine use by parents, primarily in rural areas. Child welfare agencies in these areas may need to train caseworkers on how this drug is likely to affect parents or caregivers who use it in order to safely investigate and remove children from

<sup>12</sup>See GAO, *Foster Youth: HHS Actions Could Improve Coordination of Services and Monitoring of States' Independent Living Programs*, GAO-05-25 (Washington, D.C.: Nov. 18, 2004).

homes, as well as assess the service needs of affected families to develop an appropriate case plan.<sup>13</sup>

State child welfare officials in all five states we visited said that finding homes for special needs children is a growing issue because it is hard to find parents who are willing to foster or adopt these children and who live near the types of services required to meet the children's needs. For example, child welfare officials in Texas reported that the state does not have a sufficient number of adoptive homes for children with special needs. As a result, these children generally stay in foster care for longer periods of time.

Child welfare officials we interviewed also said that the growing cultural diversity of the families who come in contact with the child welfare system has prompted the need for states to reevaluate how they investigate allegations of maltreatment and the basis on which they make decisions that could result in the removal of children from their homes. Child welfare officials in several states reported that the current protocols for investigating and removing children from their homes do not necessarily reflect the cultural norms of some immigrant and other minority families. These differences include limitations in family functioning that may be caused by poverty, the environment, or culture as opposed to those that may be due to unhealthy family conditions or behaviors. In response to growing cultural diversity, several states we visited stated that they are revising their protocols to account for religious and language differences among families who come in contact with the child welfare system.

#### **Initiatives to Resolve Challenges**

States reported implementing various initiatives to improve child outcomes, but these initiatives did not always mirror those factors states reported as most necessary to address in overcoming their primary challenges. For example, with respect to services, states most frequently reported that they were challenged by the lack of mental health and substance abuse services for children and families, yet only four states reported having initiatives to improve the level of these services. (See fig. 6.) This may be because these services are typically provided outside the child welfare system by other agencies.<sup>14</sup> Recent legislation supports states' efforts to improve substance abuse services. For each fiscal year from 2007 through 2011, the Child and Family Services Improvement Act of 2006 reserves funds under the Promoting Safe and Stable Families program for competitive grants to improve outcomes of children affected by parent/caretaker abuse of methamphetamine or another substance.<sup>15</sup>

Most states also reported that they had implemented initiatives to improve recruitment and retention of child welfare caseworkers, but few states reported initiatives to address two of the most frequently reported factors underlying this challenge—the administrative burden on caseworkers and effective supervision. (See fig. 7.) Recent law supports states' efforts in this area as well. For fiscal years 2008 through 2011, the Child and Family Services Improvement Act reserves funds to support monthly caseworker visits to children who are in foster care with an emphasis on activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.<sup>16</sup> In addition, the law reorganized the Child Welfare Services program funded under Title IV–B, adding a purpose section to the law that included: “providing training, professional development, and support to ensure a well-qualified child welfare workforce.”<sup>17</sup>

<sup>13</sup> Methamphetamine users often exhibit poor judgment, confusion, irritability, paranoia, and increased violence.

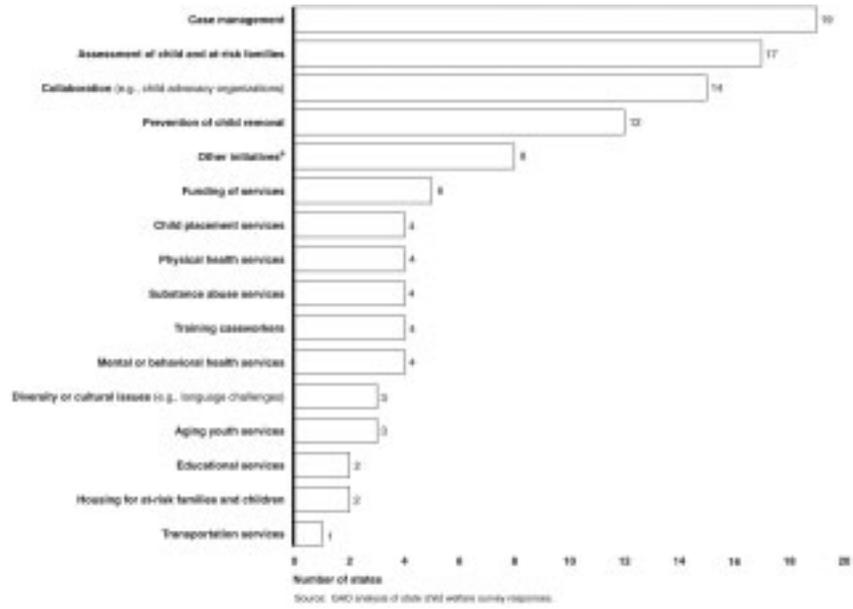
<sup>14</sup> We previously reported on how problems requiring interagency solutions often go unaddressed in such areas as transportation and housing. See GAO–05–25 and GAO, *Child Welfare: Improved Federal Oversight Could Assist States in Overcoming Key Challenges*, GAO–04–418T (Washington, D.C.: Jan. 28, 2004).

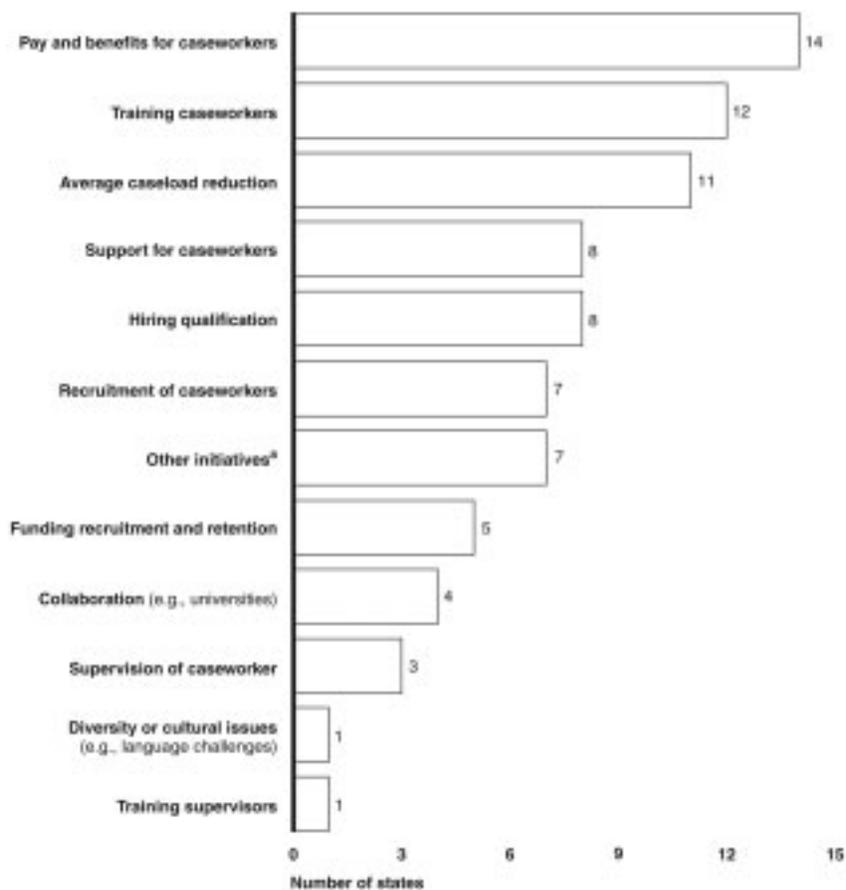
<sup>15</sup> The law reserves \$40 million for fiscal year 2007, \$35 million for fiscal year 2008, \$30 million for fiscal year 2009, and \$20 million for each of fiscal years 2010 and 2011.

<sup>16</sup> The law directs the Secretary of HHS to reserve the following amounts: \$5 million for fiscal year 2008, \$10 million for fiscal year 2009, and \$20 million for each of fiscal years 2010 and 2011.

<sup>17</sup> Pub. L. No. 109–288, sec. 6(b)(3) (codified at 42 U.S.C. 621).

**Figure 6. State-Reported Initiatives to Improve Services to Children and Families**



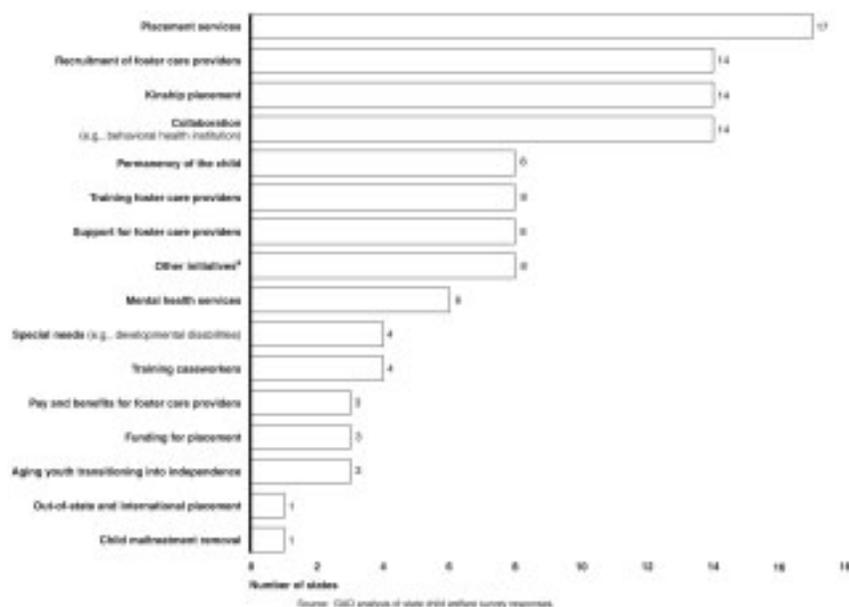
**Figure 7. State-Reported Initiatives to Recruit and Retain Caseworkers**

Source: GAO analysis of state child welfare survey responses.

Almost all states reported implementing initiatives to improve their ability to find appropriate homes for children, but few states reported initiatives that addressed two of the three most frequently reported factors underlying this challenge (see fig. 8). For example, three states reported initiatives to find appropriate homes for older youth transitioning to independence, and four states reported initiatives to find appropriate homes for children with special needs.<sup>18</sup>

<sup>18</sup>GAO previously reported that child welfare agencies focused on preparing youth for independent living while they were in foster care, but were less apt to work with other agencies—such as the local housing authority—to transition youth out of care because of conflicting policies and a lack of awareness about needed services. See GAO-05-25.

**Figure 8. State-Reported Initiatives to Find Appropriate Homes for Children**



Some states implemented initiatives under federal demonstration projects, and evaluations of outcomes states were required to conduct under these projects showed mixed results. In general, the demonstration projects offered states the flexibility to use federal funding under Title IV–B and Title IV–E in eight different program areas<sup>19</sup> in an effort to improve services and placements—addressing the three primary challenges reported by states. As of 2006, 24 states had implemented 38 child welfare demonstration projects.<sup>20</sup> However, evaluation results were mixed across child welfare outcomes. For example, while Illinois found strong statistical support for the finding that funding for assisted guardianships increased attainment of permanent living arrangements, none of the other four reporting states found similar conclusive evidence of this finding. Similarly, among four states using Title IV–E funds to fund services and supports for caregivers with substance abuse disorders, Illinois was the only state that demonstrated success in connecting caregivers to treatment services.

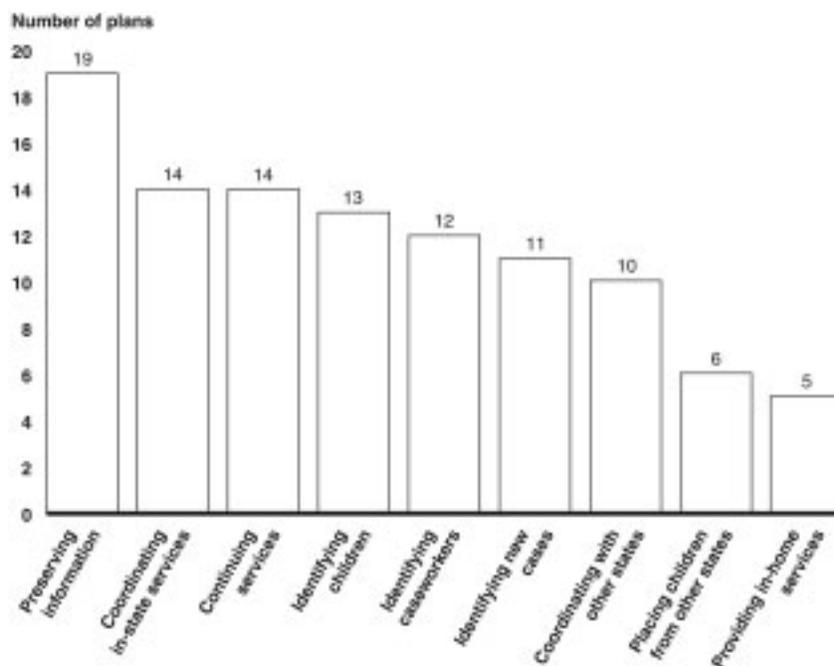
#### **Action Taken To Ensure States Develop Plans to Serve Children and Families Displaced by Disaster**

Several actions have been taken by HHS and the Congress to better ensure that states are prepared to continue child welfare services for children and families displaced by disaster across county or state lines. We reported in July 2006 that although 29 states, plus Puerto Rico, experienced a federally declared disaster in 2005, only 8 of these states reported having a written child welfare disaster plan. (See fig. 9.)

<sup>19</sup>Projects in the eight program areas included (1) providing monthly subsidies equal or comparable to foster care maintenance payments to relatives or other caregivers who assume legal custody of children; (2) providing capped Title IV–E allocations in exchange for flexibility in spending child welfare dollars for new services and supports; (3) using Title IV–E dollars to fund services and supports for caregivers with substance abuse disorders; (4) using alternative managed care financing mechanisms to reduce costs; (5) increasing the variety and intensity of services and supports to reduce out-of-home placement rates and improve other outcomes; (6) strengthening existing or provide new post-adoption and post-permanency services and supports; (7) tribal development of administrative and financial systems to independently administer Title IV–E foster care programs and directly claim federal reimbursement; and (8) training for public and private sector child welfare professionals serving children and their families.

<sup>20</sup>States can no longer apply for participation in federal demonstration projects because the program authorization expired in March 2006.



**Figure 10. Program Components Addressed by State Disaster Plans**

Source: Analysis of GAO national survey of state child welfare systems challenges.

### Observations

State challenges in serving the children and families in the child welfare system are long-standing and continuing. Resolving these problems has been difficult, however, in part due to the child welfare system's heavy reliance on various nondedicated funding streams at the federal and state levels that require an interagency approach to establish appropriate priority and funding for child welfare families across different programs and populations. As funding fluctuates or declines, full awareness of resources outside the child welfare system becomes especially important, and we recommended in our October 2006 report that the Secretary of HHS improve awareness of and access to various social services funded by the federal government.

HHS disagreed with our recommendation, stating that it was insufficient to address the need for additional services and that the recommendation incorrectly implied that local child welfare agencies were not already aware of and using such resources. We acknowledged that increasing awareness of existing federal resources is not the only action needed, but in the course of our work we found that caseworkers sometimes were unaware of the full array of federal resources, such as health and housing, available in their locale or had not coordinated with other agencies to use them. We continue to support the view that federal action, such as modifying the CFDA, would allow caseworkers and others to more easily identify services and service providers funded by federal agencies in closest proximity to the families they serve.

History has shown that in the absence of specific federal requirements or dedicated child welfare funding, many states have been slow to address existing and future challenges, such as recruiting and retaining child welfare workers or preparing child welfare disaster plans. Recent federal action has been taken to establish requirements and dedicate funding to states to help address these specific problems now and in the future. The next round of HHS state oversight reviews will determine the extent that these actions and others taken by states have been able to improve child outcomes.

*Child Welfare: Improving Social Service Program, Training, and Technical Assistance Information Would Help Address Longstanding Service-Level and Workforce Challenges.* GAO-07-75. Washington, D.C.: October 6, 2006.

*Child Welfare: Federal Action Needed to Ensure States Have Plans to Safeguard Children in the Child Welfare System Displaced by Disasters.* GAO-06-944. Washington, D.C.: July 28, 2006.

*Foster Care and Adoption Assistance: Federal Oversight Needed to Safeguard Funds and Ensure Consistent Support for States' Administrative Costs.* GAO-06-649. Washington, D.C.: June 15, 2006.

*Child Welfare: Federal Oversight of State IV-B Activities Could Inform Action Needed to Improve Services to Families and Statutory Compliance.* GAO-06-787T. Washington, D.C.: May 23, 2006.

*Lessons Learned for Protecting and Educating Children after the Gulf Coast Hurricanes.* GAO-06-680R. Washington, D.C.: May 11, 2006.

*Hurricane Katrina: GAO's Preliminary Observations Regarding Preparedness, Response, and Recovery.* GAO-06-442T. Washington, D.C.: March 8, 2006.

*Hurricanes Katrina and Rita: Provision of Charitable Assistance.* GAO-06-297T. Washington, D.C.: December 13, 2005.

*Child Welfare: Better Data and Evaluations Could Improve Processes and Programs for Adopting Children with Special Needs.* GAO-05-292. Washington, D.C.: June 13, 2005.

*Indian Child Welfare Act: Existing Information on Implementation Issues Could Be Used to Target Guidance and Assistance to States.* GAO-05-290. Washington, D.C.: April 4, 2005.

*Foster Youth: HHS Actions Could Improve Coordination of Services and Monitoring of States' Independent Living Programs.* GAO-05-25. Washington, D.C.: November 18, 2004.

*D.C. Child and Family Services Agency: More Focus Needed on Human Capital Management Issues for Caseworkers and Foster Parent Recruitment and Retention.* GAO-04-1017. Washington, D.C.: September 24, 2004.

*Child and Family Services Reviews: States and HHS Face Challenges in Assessing and Improving State Performance.* GAO-04-781T. Washington, D.C.: May 13, 2004.

*D.C. Family Court: Operations and Case Management Have Improved, but Critical Issues Remain.* GAO-04-685T. Washington, D.C.: April 23, 2004.

*Child and Family Services Reviews: Better Use of Data and Improved Guidance Could Enhance HHS's Oversight of State Performance.* GAO-04-333. Washington, D.C.: April 20, 2004.

*Child Welfare: Improved Federal Oversight Could Assist States in Overcoming Key Challenges.* GAO-04-418T. Washington, D.C.: January 28, 2004.

*D.C. Family Court: Progress Has Been Made in Implementing Its Transition.* GAO-04-234. Washington, D.C.: January 6, 2004.

*Child Welfare: States Face Challenges in Developing Information Systems and Reporting Reliable Child Welfare Data.* GAO-04-267T. Washington, D.C.: November 19, 2003.

*Child Welfare: Enhanced Federal Oversight of Title IV-B Could Provide States Additional Information to Improve Services.* GAO-03-956. Washington, D.C.: September 12, 2003.

*Child Welfare: Most States Are Developing Statewide Information Systems, but the Reliability of Child Welfare Data Could Be Improved.* GAO-03-809. Washington, D.C.: July 31, 2003.

*D.C. Child and Family Services: Better Policy Implementation and Documentation of Related Activities Would Help Improve Performance.* GAO-03-646. Washington, D.C.: May 27, 2003.

*Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services.* GAO-03-397. Washington, D.C.: April 21, 2003.

*Foster Care: States Focusing on Finding Permanent Homes for Children, but Long-Standing Barriers Remain.* GAO-03-626T. Washington, D.C.: April 8, 2003.

*Child Welfare: HHS Could Play a Greater Role in Helping Child Welfare Agencies Recruit and Retain Staff.* GAO-03-357. Washington, D.C.: March 31, 2003.

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Chairman MCDERMOTT. Thank you very much. We now turn to Mr. Bell, who is the chief executive of the Casey Family Foundation, who in another life, was a New York City commissioner running the child welfare program.

So, Mr. Bell, we're glad to have you here, and welcome your testimony.

**STATEMENT OF WILLIAM BELL, PRESIDENT AND CHIEF  
EXECUTIVE OFFICER, CASEY FAMILY PROGRAMS**

Mr. BELL. Thank you, Chairman McDermott, Congressman Weller, and members of the Subcommittee. Thank you for inviting me to participate in this hearing this morning. We commend the Subcommittee on its efforts to identify challenges facing the child welfare system, as well as seeking viable solutions to improve the lives of vulnerable children in America.

Like the Subcommittee, we feel a compelling sense of urgency to change the life outcomes for children in foster care, because we are extremely troubled by what the data tell us. The number of children abused and neglected each year is over one million. Children of color continue to be over-represented in the nation's child welfare and juvenile justice systems. Youth aging out of foster care continue to struggle to build productive, successful adult lives.

Our collective and immediate response is absolutely necessary. We are all, ultimately, responsible for the outcomes of the children in America who are touched by the child welfare system. They are relying on each of us with the power and resources to act in a way that assures them that their lives matter.

We agree wholeheartedly with the findings from the GAO report in October of 2006 that was requested by the Committee.

Casey Family Programs, however, also respectfully submits that there are approximately seven other areas that we think are essential to focus on the challenges that are being faced by child welfare systems, and these areas were absolutely critical in our efforts to reduce the foster care population in New York City from over 43,000 children to approximately 17,000 children today.

Number one is caseload size. It's a documented fact that extremely high caseloads prevent workers from being able to focus and concentrate on the health and well-being of children, and we believe that it is absolutely essential for there to be a caseload standard, or ceiling, for all caseworkers and social workers in the United States.

Number two, leadership development. It is important, and in order to sustain the positive change that we desire for children, that there must be competent executive and mid-level management expertise in our agencies. Those in strategic positions must not only have a vision, but also have the proven experience, resources, and authority to execute on that vision.

Front-line supervision. One of the critical and necessary elements of child welfare reform is investing in a frontline workforce to improve the quality of supervision provided to frontline staff. Individual workers need training, relevant education, and sufficient supervisory support to make competent, experienced decisions about the needs of children.

Number four, building political will. For any child welfare agency to be successful, there must be a public long-term commitment by the chief political leader, whether that's the Governor, county supervisor, or Mayor, to support and sustain change for children and families.

Five, building public will. Child welfare cannot do its work alone. Systems must work in tandem with local communities, law enforcement, education, health, community-based organizations, and others, to build comprehensive programs to improve the lives of vulnerable children and their communities.

Six, data. We must create and enforce data-driven accountability, and publicly report on our outcomes. We must have accurate systems to measure child welfare results, and transparency with our communication of those results to increase public trust and accountability.

Seven, time. Systems do not improve overnight. We need to set better expectations with the public, and for ourselves, as leaders, about the realistic time frames needed to produce sustainable improvement of child welfare systems.

New York City is currently considered one of the best big-city police departments in the country. This year, in New York City, there will be more than 400 murders, and many women will die, even though they have registered restraining orders in the police departments. We don't consider the department broken, nor should we, but we believe there should be an equal approach to looking at the standards that we hold our child welfare systems to.

Then, last, I would remiss if I didn't mention the need to look at child welfare financing. We urge consideration of the recommendations that were contained in a recently released report by the Pew Charitable Trust.

In closing, as I participate here today, I do so with a strong belief that change is possible, and that outcomes that we seek can be achieved. Time is of the essence.

On average, each day in America, approximately 1,425 children are removed from their homes and placed in foster care. That's 59 children every hour. In the time that it will take us to complete this hearing today, more than 100 children will have entered the foster care system in America. I thank you for seeking real change, on behalf of those children.

I also thank you, Mr. Chairman, and the Subcommittee members, for the opportunity to share Casey Family Programs's perspectives here today. I could go on a lot longer than 5 minutes, but you won't allow me. So, I will be happy to address any questions that you might have.

[The prepared statement of Mr. Bell follows:]

**Prepared Statement of William Bell,  
President and Chief Executive Officer, Casey Family Programs**

Mr. Chairman and members of the Subcommittee, thank you for inviting me to discuss Casey Family Programs' perspective on the challenges facing the child welfare system in this country.

I am William C. Bell, President and Chief Executive Officer of Casey Family Programs, the nation's largest operating foundation focused solely on providing, improving and ultimately preventing the need for foster care.

Casey Family Programs has a more than 40 year history of serving children and families throughout the country and we commend the Subcommittee on Income Security and Family Support for seeking to identify the challenges facing child welfare as well as seeking viable solutions to improve the lives of vulnerable children in America.

Like the Subcommittee, we feel a compelling sense of urgency to change the life outcomes for children in foster care, because we are extremely troubled by what the data tell us:

- The number of children who are victims of abuse and neglect is nearly 1 million each year.
- Children of color continue to be over-represented in the national child welfare and juvenile justice systems.
- Youth aging out of foster care continue to struggle to build productive, successful adult lives. And
- The ratio of children to caseworkers continues to be too high to serve children and families effectively in far too many jurisdictions across the country.

Our collective and immediate action is absolutely essential.

We are all ultimately responsible for the outcomes for the children in America who are touched by the child welfare system. They are relying on each of us with the power and resources to act in a way that assures them that their lives matter.

When a child in this country is placed into foster care, we as child welfare providers, local, state, and federal government officials take on the parental duty to raise them—hopefully with the same standard of care that we would want for our own children if they were to experience the foster care system. And yet, children in foster care remain the most vulnerable in our society for poor outcomes.

The GAO Report produced in October 2006 at the request of the Subcommittee identified three of the most important challenges state child welfare agencies need to address in order to improve outcomes for children and families as:

- 1.) Providing an adequate level of services for children and families,
- 2.) Recruiting and retaining caseworkers, and
- 3.) Finding appropriate homes for children

We agree with the GAO findings and based on Casey Family Programs' more than 40 years of direct practice experience and ongoing partnerships with child welfare systems across the country, we respectfully submit that there are seven specific challenge areas that must receive focused attention and resource investments in the near term to achieve the long term positive results we all desire and that children deserve:

- **Caseload Size:** It is a documented fact that dangerously high caseloads severely hinder caseworkers' ability to focus on the health and well being of children in our care.

Given the high amount of time a caseworker and/or social worker has to spend with administrative duties, travel, court appearances and providing quality service to children and families, we need to implement a reasonable caseload size standard or ceiling for all child welfare caseworkers/social workers in this country.

- **Leadership Development:** In order to implement and sustain positive change, competent executive and mid-level leadership must be in place. Those in strategic positions must not only have a vision, but have the proven experience, resources and authority to execute that vision.

- **Frontline Supervision:** One of the critical and necessary elements of child welfare reform is investing in the frontline workforce to improve the quality of the supervision provided to frontline staff. Individual workers need proper training, relevant education, and sufficient supervisory support to make competent, experienced decisions about the needs of children.

Today many workers lack the education credentials and the practical training to ensure high quality front line performance. We know with increased preparation, management support and tools, staff can work with families more proactively on the front end to help them access existing, valuable community resources and help engage extended family and community members in best interests of a child.

- **Building Political Will:** For any child welfare agency to be successful there must be a public, long term commitment by the chief political leader (e.g. governor, county supervisor, or mayor) to support and sustain change for children and families. The chief politician must be informed and engaged with the child welfare leadership to implement and consistently build on their clear plan of action.

In many cities and states today, political support of child welfare is extremely low or non-existent. The average child welfare leader's tenure in this country is 18 months to 2 years. It is clear when an issue or child incident occurs, child welfare stands very much alone—and leaders often feel forced to make near term decisions in times of crisis.

Where we have seen true, long term success, is in jurisdictions where political leaders have collaborated with child welfare leaders (just as they would with police, fire or education departments) to jointly manage and execute a vision for change.

- **Community and Cross-Systems Engagement: Building Public Will:** Child welfare cannot do this work alone. Systems must work in tandem with local commu-

nities, law enforcement, education, health, community-based organizations, philanthropic organizations and others to build comprehensive programs to improve the lives of vulnerable children in their communities.

- **Data:** We must create and enforce data-driven accountability and publicly report our outcomes. We must have accurate systems to measure child welfare results and transparency with our communication of those results to increase public trust and accountability.

Without quality data, we cannot effectively track and share progress and learning, and make better informed decisions regarding the investment of resources.

- **Time:** Systems do not improve overnight. We need to set better expectations with the public and for ourselves as leaders about the realistic timeframes needed to produce sustainable improvement of child welfare systems.

New York City has reduced crime significantly in the past 12 years. It is considered to have one of the best big city police departments in the world. But this year there will be more than 400 murders in New York City.

This year a number of women with restraining orders sanctioned by the courts and registered with the police department will be killed by their husbands or significant others, but that won't result in a declaration that the police department is broken and nor should it.

My contention is that we must develop similarly reasonable standards for improvement in child welfare.

Systems must improve and they must be held accountable. But we must also recognize that real, lasting, and sustainable improvement takes time.

Starting with the 20 states with the highest populations of children in care, Casey Family Programs has embarked on an effort that we call our 2020 Strategy for Children.

Between now and the year 2020 Casey Family Programs is committed to supporting and partnering with the child welfare system in each state in the country to implement changes in these critical challenge areas in order to achieve the goal of improving the life outcomes for children in foster care in America as well as safely reducing the number of children who experience foster care in America.

Lastly, I would be remiss if I did not address the issue of child welfare financing, as it is an obvious factor in any aspect of fundamental change. Currently, the federal government provides more than \$12 billion each year to help pay for the cost of our child welfare systems.

Unfortunately, for several decades, federal funding policies have not aligned well with many promising child welfare practices and have had the unintended consequences of providing a disincentive for innovation in some of the practices that we know work best for children and families.

These consequences are visible in the lack of IV-E flexibility for subsidized guardianship, the lack of comprehensive post reunification services, the lack of comprehensive post-adoption services, and the lack of comprehensive transition support services for young adults who age out of the foster care system.

Recently the PEW Charitable Trusts with the support of other child welfare organizations has introduced a set of comprehensive recommendations to improve child welfare financing. We strongly believe that federal finance reform is critical to achieving better results for children, and would urge consideration of these recommendations.

In closing, as I participate here today I do so with the strong belief that change is possible and that the outcomes that we seek can be achieved—but time is of the essence. On average, each day in America, approximately 1,425 children are removed from their homes and placed in foster care. That is nearly 59 children every hour.

In the time that it will take to complete this hearing today more than 100 children will have entered the foster care system in America. . . .

I thank you for seeking real change on their behalf.

I also thank you again Mr. Chairman, Congressman Weller, and Subcommittee members for the opportunity to share Casey Family Programs' perspective with you today.

Casey Family Programs is honored to serve children and families and we are committed to working with government, child welfare agencies, and other systems and partners in every community in America to ensure we follow through on our promise to improve the outcomes and life possibilities for every children and families who are touched by the child welfare system.

Thank you.



Chairman MCDERMOTT. The red light is on. Thank you. Thank you very much. Next we have Ms. Nelson, who is the director of the child welfare department in Iowa. So, we will hear a little bit of a different story, maybe, than the story in New York City. Or, maybe not.

Ms. Nelson.

**STATEMENT OF MARY NELSON, ADMINISTRATOR, DIVISION OF CHILD AND FAMILY SERVICES, IOWA DEPARTMENT OF HUMAN SERVICES**

Ms. NELSON. Good morning, Chairman McDermott, Congressman Weller, and members of the Subcommittee. Again, my name is Mary Nelson, and I am the administrator of the division of child and family services for the Iowa Department of Human Services, and I, too, appreciate the opportunity to testify before this Subcommittee about the challenges facing the public child welfare system. I testify today on behalf of Iowa, as well as the National Association of Public Child Welfare Administrators.

I am going to speak to five challenges. The first is resources. As someone who has worked in this field for more than three decades, I have seen the federal role in funding for this system decline, while oversight has increased. It might surprise some to learn that fewer than 50 percent of the children in the child welfare system are supported by federal IV-E funding. States have picked up the responsibility to fund the needs of these children, and that trend is clearly not sustainable.

The second challenge is around the workforce. The issue of an adequate workforce of frontline child welfare caseworkers and trained supervisors is one of the most significant challenges we face in Iowa. Over the last 3 years, we have worked diligently to reduce the workload of our frontline child welfare staff, in order to increase monthly visits.

However, we are not where we ultimately want to be. We are now doing monthly visits with just over 50 percent of the children we serve, but we do not have the staff complement to reach 100 percent. New flexibility in the use of federal funds to support these frontline staff would help us to continue to make progress to reach this goal.

The third challenge is cross-system collaboration, and I'm going to use education as an example, because our foster youth council, Elevate, has identified educational issues as the number one issue they want to work on this year.

Based on a study through Chapin Hall, we found that over one-third of the children that aged out of foster care in Iowa have had five or more school changes, and nearly half reported having spent at least some of their educational experience in special education. Simplification of records transfers, and access to wrap-around educational services to ensure foster children don't fall behind in school is critical. We will look for opportunities to address these issues in the congressional reauthorization of the McKinney Vento and No Child Left Behind Acts.

The fourth challenge is support for relatives and post-permanency. In Iowa, almost 40 percent of foster care placements are with relatives. Many of these relative care-takers, however, choose

not to become licensed as foster parents. As a result, even though they have met the same safety standards as licensed foster parents, they are ineligible for federal financial support through Title IV–E.

Including guardianship subsidies within the Title IV–E program would mean that all eligible children could achieve permanency through guardianship, not just those that are participating in a waiver. This is especially important for older youth in care, who might otherwise age out of foster care with no permanent family connections.

In Iowa, as is true nationally, well over half of the children that exit foster care are reunited with their families. Providing post-permanency support for birth families is critical to maintaining these placements, just as it is with adoption and guardianship.

The fifth challenge is around disproportionality. In Iowa, we have identified disproportionality and disparate outcomes in child welfare as a critical issue in our recent redesign of our child welfare system. It is my understanding that Congress has begun to pay attention to this issue, with Chairman Rangel requesting a GAO study. We look forward to discussing this challenge further, once that study is released.

Addressing only the challenges I have outlined in this testimony, however, simply is not sufficient. Abused and neglected children deserve a comprehensive approach to improving their lives.

For the past several years, various national groups have come to Congress, asking for reform of the federal child welfare financing structure, each with their individual recommendations for reform. Though there was a good deal of overlap in the reform proposals, it may not have appeared as if there was consensus.

To focus our efforts to move this critical agenda forward, leading child welfare advocacy organizations joined forces to develop consensus recommendations for reform. Today, APHSA, the American Federation of State, County, and Municipal Employees, Catholic Charities USA, the Center for Law and Social Policy, the Child Welfare League of America, the Children’s Defense Fund, the National Child Abuse Coalition, and Voices for America’s Children propose recommendations that cover three primary areas of reform.

First, guaranteeing services, supports, and safe homes for every child who is at risk of being, or has been abused or neglected, by strengthening the Federal/State child welfare partnership by amending Title IV–E without converting any of IV–E to a block grant.

Second, promoting program effectiveness through workforce investment, and vigorous evaluation.

Third, enhancing accountability, both fiscal and programmatic. We urge the Subcommittee to adopt these recommendations, in order to keep children safe and in nurturing families. Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.

[The prepared statement of Ms. Nelson follows:]

**Prepared Statement of Mary Nelson, Administrator,  
Division of Child and Family Services,  
Iowa Department of Human Services**

Good morning, Chairman McDermott, Congressman Weller, and members of the subcommittee. I am Mary Nelson, administrator of the Division of Child and Family Services for the Iowa Department of Human Services. In this position, I have responsibility for program and policy in child protection, foster care, permanency, and adoptions as well as child care regulation, juvenile institutions, delinquency programs, dependent adult protection, teen pregnancy prevention, child abuse prevention and family support and the interstate compacts for children, juveniles and medical assistance and adoption. I am also a current member of the National Association of Public Child Welfare Administrators (NAPCWA), an affiliate of the American Public Human Services Association (APHSA), and am here today in that capacity as well. APHSA is a nonprofit, bipartisan organization representing state and local human service professionals for over 76 years. NAPCWA, created as an affiliate in 1983, works to enhance and improve public policy and administration of services for children, youth, and families. As the only organization devoted solely to representing administrators of state and local public child welfare agencies, NAPCWA brings an informed view of the problems facing families today to the forefront of child welfare policy.

I appreciate the opportunity to testify before this subcommittee about the challenges facing the public child welfare system in serving children and families who have come to our attention. With over three decades of experience with the Iowa Department of Human Services, beginning as a caseworker, I have seen, experienced and worked to address the many challenges the child welfare system has and continues to face.

#### **BACKGROUND**

APHSA members appreciate the Subcommittee's attention to one of our nation's most critical and heart wrenching struggles—what we can and should be doing to improve the lives of children who are at risk of being or have been abused and neglected. The latest data released by the federal government indicate that in 2005, an estimated 899,000 children were found to be victims in this country. The child welfare system serves as the safety net for these children and works to improve their life circumstances and outcomes.

#### **CHALLENGES**

I must start off with saying that the challenges are great. I have been asked to discuss the top four to five challenges facing public child welfare systems. The challenges I will outline today are those we face in the state of Iowa, but are also similar to those encountered by other states. As someone who has worked in this field for more than three decades, I have seen the federal role in funding for the system decline, while oversight has increased. And it might surprise some to learn that fewer than fifty percent of the children in child welfare are supported with a federal dollar. States, including Iowa, have picked up the responsibility to fund the needs of these children and that trend is clearly not sustainable.

#### **Core Work of the Child Welfare System—A Skilled and Supported Workforce**

Child welfare professionals courageously work in one of the most challenging professions in this country. The jobs performed by caseworkers have become more complicated as the challenges faced by families in the child welfare system have become increasingly complex. An enormous responsibility is placed in the hands of caseworkers as they are expected to perform multiple interventions and make judgments that have the power to change a child's life. Their findings can determine whether a child is kept safe or put at risk. The connection that caseworker can make is greatly impacted by the competencies they can acquire and build through effective training, available tools including the array of services to which they can link families and on-going support. This subcommittee acknowledged this core element of child welfare work in the recent reauthorization of the Promoting Safe and Stable Families program with the requirement for monthly visits in ninety percent of foster care cases. States agree with the importance of face-to-face visits as is demonstrated by requirements in many state child welfare policies and in the results of the first round of the Child and Family Services Reviews (CFSRs) where both visits with children and with parents were strongly associated with a decreased risk of harm to the child; improved permanency and enhanced child well-being. However, the re-

sources needed to meet this goal have not been sufficient given that less than 25% of states received a rating of strength on the worker visits items in the CFSRs.

Additionally, child welfare supervisors play a vital role in providing support, skill building, and professional development to caseworkers. Supervisors are coaches, mentors, and evaluators responsible for the quality of services children and families receive. A supported, skilled, and stable workforce is crucial in child welfare practice given the tremendous impact caseworkers can have on helping vulnerable children and families overcome difficult life circumstances. Training, workload, risk of violence, supervision, and turnover present great challenges to providing the needed workforce supports in this field. However, there is the opportunity to build on the level of motivation and the level of dedication among the child welfare workforce which are incredible assets that can contribute to meaningful and sustained improvements. A key to improving the workload for caseworkers is to ensure access to other human service systems that can help provide the services needed by children and families.

### **Iowa's Challenges**

The issue of an adequate workforce of frontline child welfare caseworkers is one of the most significant challenges we face in Iowa in terms of meeting the requirement for monthly visits. In our first CFSR, we found that we were only meeting that requirement with ten percent of the children and 23% of families we served. We worked diligently in our Program Improvement Plan to reduce the workload of our frontline child welfare staff in order to make improvements in this area. Although not where we want to be ultimately, I'm pleased to say that we are now doing monthly visits with just over 50% of the children we serve. I'm also pleased to say that we are seeing the positive results of this effort in terms of improved relationships with children and families, workers being better prepared for Court, and better outcomes. Our staff are also reporting higher satisfaction in being able to spend more time directly working with children and families. Iowa has also struggled with having an adequate number of trained supervisors. As noted, frontline supervisors play an essential role as expert consultants to our frontline staff as they make the critical decisions expected of them. We have been fortunate to receive two federal grants focused on recruiting, training and retaining child welfare supervisors. As a result, we have been able to strengthen the skills of our supervisors as coaches and mentors. We've also been fortunate to receive funding from our state Legislature to hire additional supervisors.

Despite the progress we've made to date, we do not currently have the staff complement to reach 100% of the children we serve. New flexibility in the use of federal funds to support these frontline staff—caseworkers and supervisors—would help us to continue to make progress to reach this goal.

### **Cross-system Collaborations**

The child welfare system cannot do its work in isolation because we cannot address the complex needs of children and families, and achieve improved outcomes for children and families alone. Cross system collaboration is critical both in terms of addressing the multiple needs of at-risk families in order to prevent abuse and neglect, and in terms of addressing the complex needs of the children and families that come to the attention of the child welfare system. Child protection is often the final safety net for many of the children and families that were not "caught" in time by other systems, such as mental health, housing, public health, or education. By working together, child welfare and other systems can strengthen families and prevent the need for child welfare system involvement.

For those children and families that do come to the attention of the child welfare system, cross-system collaboration is necessary to address the multiple challenges these families face, as well as the trauma of family violence. The Children's Bureau's CFSR findings indicated that in 86% of states, key services for parents are lacking (e.g., substance abuse assessment and treatment, child care, respite care, transportation, domestic violence services, home-based services, housing, and post-reunification services). Addressing these issues is often integral to reunification and the ability of a family to care properly for its children. Collaboration and partnerships must be developed and continued with all of the critical agencies that can provide services to children and families who have come to the attention of the child welfare system. The system has increasingly been contending with crosscutting challenges impacting the lives of children and families including unmet medical and mental health needs, educational challenges, substance abuse, housing challenges for both families and older youth exiting foster care, and domestic violence.

Obstacles to truly connecting the supports these families need remain today. The items that were least likely to be rated as a strength on the CFSRs pertained to

assessing and meeting service needs and meeting children's mental health needs. Waiting lists for services, particularly substance abuse treatment services, were found in 69% of states. The funding provided in the reauthorization of the Promoting Safe and Stable Families program for substance abuse partnership is a step in the right direction, however, not all states will receive grants to enhance their capacity to address this issue. Numerous families that come to the attention of child protection have unmet mental health needs. Private health insurance limitations, an inadequate supply of services, and limited resources have all impacted the access to mental health services for both children and parents. This concern is reinforced by the findings in the CFSR that in 71% of states there is a lack of mental health services for children, and in 77% of states the number of dentists/doctors willing to accept Medicaid is not sufficient to meet the need. Recent limitations on the ability of states to use Medicaid Targeted Case Management funds and upcoming changes to the Medicaid Rehabilitation Option will greatly diminish the federal government's role in partnering with states to meet the on-going health and mental health needs that must be addressed to improve outcomes for children and families involved with the child welfare system.

We have seen cases where the lack of adequate housing can lead to overcrowded conditions that cause high levels of stress and can ultimately lead to the maltreatment of a child. Educational outcomes for children in foster care are lower than those of the general population. Simplification of records transfers and access to wrap around educational services to ensure foster children don't fall behind in school during placement moves is critical. We will look to opportunities to address these issues in the Congressional reauthorizations of the McKinney-Vento Homeless Assistance and the No Child Left Behind Acts.

These examples serve to highlight how systems must work together to better address the varied needs of families and how the federal government must continue to be a true partner in ensuring these services reach the children and families most in need. Although the CFSR findings indicated that less than one-half of the states achieved substantial conformity with the systemic factor of service array, it also showed that more than one-half of the states were found to be effective in individualizing services to meet the unique needs of children and families. If these systems can be brought together to enrich the array of services available, child welfare systems have shown that they do have the ability to connect children and families to the supports they need.

### **Iowa's Challenges**

With respect to our experience in Iowa, I want to focus on the challenge of ensuring that children in foster care have their educational needs met. Our youth council, Elevate, which is made up of current and former foster care youth, has identified educational issues as the number one issue they want to address in the upcoming year. Based on a study done through Chapin Hall, we found that over one-third of children that "aged out" of foster care in Iowa have had 5 or more school changes, nearly half reported having spent at least some of their educational experience in special education, 18% missed at least one month of school due to foster care change, and over half could not read at a 7th grade level. About a third had repeated a grade, and more than two-thirds had received out-of-school suspensions. While Iowa's CFSR final report indicated we were making appropriate efforts to assess and address children's educational needs, we can and must do better than the Chapin Hall findings. In an effort to turn these outcomes around, the Iowa Departments of Human Services and Education have signed a Memorandum of Agreement identifying a set of concrete steps we will take to address these issues. In 2006, the DHS also used state funds to implement the Preparation for Adult Living (PAL) program, which provides continued support to youth that "age out" of foster care that are continuing their education or working. Iowa has also taken advantage of the Medicaid option for youth that age out of care. And, this year, the Legislature appropriated additional state funds for a post-secondary education tuition waiver program that will supplement the Chafee Education and Training vouchers. Support from Congress can help states address these and other cross-system collaborations.

Another important area where cross-system collaboration plays a key role is prevention of abuse and neglect. In Iowa, we have implemented an initiative, Community Partnerships for Protecting Children, that brings together child welfare, substance abuse, mental health, housing, education, public health, corrections, the faith community, businesses, and local neighborhoods to work together to develop neighborhood based supports that address the multiple needs of vulnerable children and families.

### **Supporting (Birth, Foster, Kin and Adoptive) Families**

The child welfare system cannot succeed without the partnership with all of the families who care for abused and neglected children—birth families, foster families, kin, and adoptive families. A state or local system cannot provide the nurture and care that these families can provide, with the necessary supports and services from the child welfare system. The CFSRs showed that a key challenge for many states is having a sufficient number and type of placement options to ensure that a child's out-of-home placement is based on appropriateness rather than availability. Once those placements are found, they must all receive the supports needed for the children in their care.

The majority (54%) of children in foster care were reunified with their families in 2005. In these instances, child welfare systems may have met the challenges of providing the family with the necessary services to improve their lives to a point of warranting reunification. However, states currently lack the resources necessary to provide continued services and supports to ensure children don't re-enter the foster care system. Reunification cannot be the end goal; rather, the focus must be on keeping children with their families whether it be prior to a removal or after a reunification. The Children's Bureau's analysis of the CFSRs indicated that more than 60% of child welfare agencies were not able to provide sufficient and/or adequate post reunification services and only half were able to meet the national standard for re-entry into foster care.

Recruiting and retaining foster parents, particularly for older youth and children with special needs, poses an on-going challenge for child welfare systems. It is not always an easy decision for families to take on the important work of caring for children who have experienced difficult home situations. They must be commended and supported for the incredible role they've agreed to fulfill.

Relatives and other caretakers known to the child often step in when a home is needed for a child who has come to the attention of the child welfare system. These caretakers, often grandparents, do not necessarily have the resources to provide the care needed for children who have been removed from their homes. Child welfare systems face the challenge of a declining federal role, given federal regulatory definitions and recent legislative changes, in providing the resources needed by relatives. Child welfare systems also struggle with providing supports to kin and kith who are willing to provide children with permanency through guardianship. The federal role in supporting this permanency option is currently lacking.

In 2005, over 51,323 children were adopted from foster care. Adoptive families are essential for children who are unable to return to their family of origin. However, on-going supports are necessary for these families as well in order to ensure they can continue to care for the children they've taken into their family. Post-adoption supports through the adoption assistance program continue to decline as the Title IV-E eligibility link to 1996 standards erodes over time. While more federal support is needed for post-adoption services, there currently is no federal support for any of the other post-permanency options that can also lead to positive outcomes for children such as guardianship and reunification.

### **Iowa's Challenges**

In Iowa, almost forty percent of foster care placements are with relatives. Many of these relative caretakers, however, choose not to become licensed as foster parents. As a result, even though they have met the same safety standards as licensed foster parents (e.g., child abuse and criminal record checks, and home inspections and studies); they are not eligible for federal financial support through Title IV-E. In Iowa, we also now have more children in subsidized adoption than we do in foster care placements, in fact, almost fifty percent more. Thankfully, the vast majority of these benefit from federal support through Title IV-E. Due to the link to 1996 eligibility standards, however, that percentage is declining.

Historically, Iowa has had few families able to provide permanency through guardianship, in part, due to the lack of federal support through Title IV-E. Recently, Iowa received one of the last Title IV-E waivers for subsidized guardianship. We began our program in February of this year, and look forward to being able to offer post-guardianship support through this program. While we are grateful to have this opportunity, offering this program through a waiver means that only some children can benefit since we must maintain a "control" group that cannot receive a subsidy. Including guardianship subsidy within Title IV-E would mean that all eligible children for whom another permanency option is not possible could achieve permanency through guardianship. This is especially important for older youth in care who might otherwise "age out" of foster care with no permanent family connections.

Lastly, I want to note that in Iowa, as is true nationally, well over half of the children that exit foster care are reunited with their families. Providing post-permanency support for birth families is critical to maintaining these placements, just as it is with adoption and guardianship. While Iowa has made significant improvement in reducing our foster care re-entry rate from twenty-two percent three years ago to ten percent, we still need to do a better job of supporting children and families after they leave care.

### **Disproportionality**

The issue of disproportionality in child welfare has received the attention of child welfare administrators across the nation. The scope of the issue includes differing experiences and/or outcomes for children in the child welfare system based in some part on racial or ethnic factors. Child welfare agencies are struggling to identify effective strategies that accurately identify where disproportionality is manifested within public child welfare systems and to positively impact outcomes by addressing issues at the individual and systemic levels.

Although the federal government found no relationship in the first round of the CFSTRs between the percentage of white children in the state's foster care sample and the state's ratings for the outcomes, there were indications in the analyses that African American children and Alaska Native/American Indian children were more likely to be in the foster care case sample than in the in-home case sample. It is our understanding that Congress has begun to pay attention to this issue with Representative Rangel requesting a GAO study. We look forward to discussing this challenge further once that study is released.

### **Iowa's Challenges**

In Iowa, the Department of Human Services identified disproportionality and disparate outcomes in child welfare as a critical issue in our recent redesign of our child welfare system. As a result, we have implemented two demonstration projects—one in Sioux City focused on Native American children and families, and one in Des Moines focused on African American children and families. Both projects focus on expanding community based culturally competent services, improving family engagement, and cross-systems collaboration. Although progress is slow, in both cases we are seeing improvements in our work and in outcomes for children and families. In fact, Sioux City was recently recognized by the Center for Community Partnerships in Child Welfare as one of 10 jurisdictions to watch in terms of addressing this issue.

## **CONCLUSION**

The challenges outlined in my testimony are but a few of the many in a system that impacts every aspect of a child and family's life. Given that my testimony before you today is not considerably different from the one I presented in January 2004 and that the Government Accountability Office recently reported the long-standing challenges the system continues to face, we must do something drastically different in this country about child welfare. Addressing only the challenges I've outlined in this testimony simply is not sufficient. Abused and neglected children deserve a comprehensive approach to improving their lives.

For the past several years, various national groups have come to Congress asking for reform of the federal child welfare financing structure; each with their individual recommendations for reform. Though there was a good deal of overlap in the reform proposals, it may not have appeared as if there was consensus. Therefore, APHSA joined with a group of national organizations that worked for more than one year to develop recommendations in order to come to Congress with one voice in asking for help in meeting the on-going challenges faced by child welfare systems throughout this country. The recommendations outline changes needed to ensure access to broad range of services and supports—including prevention, treatment and post-permanency and other services—for children who have come to the attention of the child welfare system. Today, APHSA, the American Federation of State, County and Municipal Employees; Catholic Charities USA; the Center for Law and Social Policy; the Child Welfare League of America; the Children's Defense Fund; the National Child Abuse Coalition; and Voices for America's Children, propose recommendations that cover three primary areas of reform:

1. Guaranteeing services, supports and safe homes for every child who is at-risk of being or has been abused or neglected by strengthening the federal-state child welfare partnership by amending the federal Title IV-E statute to do the following without converting any of the Title IV-E to a block grant
2. Promoting program effectiveness

### 3. Enhancing accountability

Although several bills have been introduced in this Congress that would address some of the challenges facing the child welfare system, comprehensive reform is necessary to make a significant impact. We urge the Subcommittee and Congress to adopt our joint recommendations in order to keep children safe and in nurturing families. The details of our recommendations are attached to my testimony and available on the press table.

NAPCWA's vision for child welfare is a society where children are free from abuse and neglect and live in safe, stable, permanent families—where children and families have needed supports and can help themselves. When children are at risk and come to the attention of the public agency, the agency can provide services and supports to them and their families to mitigate their problems and prevent them from being removed from their families and communities. When children must come into care, the agency can address children and family needs expeditiously and enable a safe reunification or, where that is not possible, find an alternative permanent placement expeditiously, while assuring their well-being in the interim. It is a vision where the child welfare system has the capacity to improve outcomes for children and families, and the federal government and states are equal partners in serving all children in all parts of the system.

Thank you for the opportunity to testify. I would be pleased to respond to any questions you may have.

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Chairman MCDERMOTT. Thank you very much, and thank you all for your testimony. As I sat here listening to it, and having worked as a child psychiatrist in and around the system in various places, you have laid out a smorgasbord of possibilities, some of which are well handled at the Federal level, and some aren't handled at the Federal level.

I would like to hear you talk about this because I think we can set the funding aside for just a second, and talk about the structure of the system. What things do you think this Subcommittee ought to consider, such as putting a Federal standard, or do you want 50 different standards in each State?

I would like to hear from those of you in the business. If you were sitting up here, what would you be pushing? Governor? Or, not Governor—

Ms. HOLTON. I will take that.

[Laughter.]

Chairman MCDERMOTT. Judge?

Ms. HOLTON. Congressman, I think one great thing the Federal Government has done, and I think it has had good effects at the State level, is the CFSR process, the child and family service reviews process, which has set some very high standards, and some very specific accountability measures.

They have now conducted the reviews in all 50 states, and all 50 states flunked, which was the expected result, because the standards are high, but they set real outcome measures. It's hard—accountability, everybody agrees with in principle. To do accountability well, you have to have not just one measure, but rather you have to have a range of measures that captures all the things you care about. I think the CFSR process, overall, has done a good job on that. So, I think we should support that.

The flip side of that is, having set high standards and put in motion an accountability process, we then need to give the states the maximum flexibility, in terms of how they go about processing and achieving those outcomes goals, because there is an awful lot of—

I just—I didn't know much about the money side of this business from when I was on the bench. That was not part of my job. In fact, it was my job not to know, "I don't care how much it costs, you've got to do what the law requires."

The more I learn about it, some of these requirements, Byzantine is the only word. There is nothing productive about going back to look to a 1996 AFDC income measure. So, to the extent we can set outcome measures, and then provide the states maximum financial support that we can, and give them maximum flexibility, I think that's the right general approach.

Mr. BELL. I would add to that, that of the list that I think you have heard from a number of us, three areas, I think, need focus.

One is the caseloads. We allow workers to have as many as 100 cases on their caseloads in various places. We absolutely know that is not an environment where children can get the services that they need. So, I think something must be done that says that we will not allow workers to carry more than X number of cases.

I don't want to prescribe 12 to 15, or 20, but I think something needs to be done to look at, definitely, where does the scale tip into the area where the children don't get the services that they need? Then we need to set a ceiling for workers' caseloads.

I think number two would be supervision. We cannot allow workers to make independent decisions in isolation, as significant as when a child needs to be separated from their families. There must be quality supervision provided on those critical decisions that will impact on the long term of a child's life.

Then, the third area is, I think, a focus on services that absolutely need to be addressed. One is post-reunification services. We take children away from parents, keep them in care for long periods of time, and then give them back to those parents, and then leave the parents to themselves. We have got to have parents transition back with those children, the same way we focus on post-adoptive services, and we need services in that area.

I think, last, transition services for youth aging out of foster care. Far too many of the young people who go into adulthood out of the foster care system end up with the kind of life outcomes that we heard from the First Lady. I believe that there is an area where there is a gap, where there is not sustained funding and support for this particular area, and we have to make a difference in that area.

Ms. ASHBY. Mr. Chairman, I certainly would agree with what my two fellow panelists have said. Specifically with regard to what Mr. Bell just said about services. We made a recommendation in our October 2000 report, which I think is very important here.

There may very well be, across the Nation, adequate levels of services. We don't know. However, we do know that there are a lot of caseworkers and families that don't know what services are available. These are services provided not only by the Federal Government, but also State, and perhaps, local services.

With regard to Federal services, we have recommended that HHS take the lead, and modify the current catalog of Federal domestic assistance, which lists over 300 Federal social service programs. It's a database that is maintained by the GSA, General Services Administration. We have suggested that be used as a

basis for letting local workers and families know what is already available. That would include all kinds of services, post-reunification and other.

Ms. NELSON. I, too, want to amplify, or support what the others have said already about the value of the CFSRs, as far as putting an organizing structure around a Federal/State partnership. I think it's done more for improving child welfare and focusing State and Federal efforts than perhaps efforts from years before.

One very specific recommendation I want to speak to that is in my written testimony that I think, in particular, would build on what William Bell said, around the importance of workforce, which I absolutely support, and that is to look at the Federal match rate under Title IV-E administration, and bifurcate that so that the match rate for frontline workers and frontline supervisors might be at the FMAP rate, and keep the more traditional administrative overhead at the 50 percent match rate.

That would be an opportunity for the Federal Government to be a real partner with the State around improving and investing in the workforce.

Mr. COTTON. I would just like to add two things, because I agree with everything that was said, just about, so far, too.

You have heard a lot today about Illinois and New York greatly reducing the foster care populations. As we pointed out, one of the big ways through in-home services. For the investigator going out at night, to actually have a choice besides leaving a child in a risky home or taking that child away, actually having some immediate services available, and a funding stream to do that, I think is very big.

The other issue that has been touched on by a couple of people was kinship care, relative care, whether they're licensed or not, how you fund them. I think that the Federal Government, or at least a work group, could look at developing standards that may be somewhere between licensing and very little, in terms of where you're going to get with that, because you do want to make sure that the kids are safe. You will run into situations where relatives or kin feel they don't need training because they raised their own kids. All of our foster parents raise their own kids, and they still need—or most of them, not all of them—they still need training, because we have some very difficult kids coming into the system.

So, in addition to the others, I think that those are two big areas we should focus on.

Ms. NELSON. I apologize for speaking a second time, but one thing that I think none of us has mentioned that I think Congress has played a helpful role in, is the focus on the courts, through the court improvement projects, and the funding, and the structure that has been set for court expectations. I think that has also been a very important role that Congress can play.

Chairman MCDERMOTT. Mr. Weller will inquire.

Mr. WELLER. Thank you, Mr. Chairman. Looking over the testimony last night, I was looking at Mr. Cotton's testimony about the case of Clark County, Nevada, and clearly, a case study of failure. A situation, since Federal funds are involved, frankly, that is a national disgrace.

Mr. Chairman, I pulled some news clippings regarding Clark County, which I would ask unanimous consent they be included in the record.

Chairman MCDERMOTT. Okay.  
[The information follows:]

Apr. 14, 2007  
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## **Child welfare advocate angry**

### **Abused girl's case shows investigators not doing job, she says**

By LISA KIM BACH  
REVIEW-JOURNAL

At least three times before Las Vegas police intervened, Child Protective Services investigated the suspected abuse and neglect of Sabrina Smith's 3-year-old daughter.

Child welfare investigators deemed the reports unsubstantiated and closed the case each time.

At 1:30 p.m. on April 8, two police officers responding to reports of a bruised and injured toddler knocked on the door of Smith's southeast Las Vegas home. When they found the child in an upstairs bedroom, they looked at her and saw:

- Two black eyes, several days old.
- Long lacerations on the back of the child's legs, scabbed over.
- Signs of being malnourished.

While being examined by emergency medical responders, the girl, who weighs only 19 pounds, said "owwey" and pointed to her stomach, police said.

The girl was taken to Sunrise Hospital and Medical Center. Three siblings were placed in protective custody and transported to Child Haven. Sabrina Smith and her boyfriend, Brian Amis, were arrested and charged with felony child abuse with substantial bodily harm.

It's yet another example of how Clark County Family Services front-line investigators are failing in their mission, said child welfare advocate Donna Coleman.

"The Department of Family Services is investigating these kids to death," Coleman said Friday. "It's just luck that this little girl's not dead."

Coleman's anger is rooted in her opinion that despite months of public study, debate and reports that detail the shortcomings and poor practices of Clark County's child welfare agency, change isn't happening fast enough to save children. Smith's daughter is all too reminiscent of Adacelli Snyder, Coleman said.

Adacelli was 2 years old and weighed 11 pounds when she starved to death in 2005. Child Protective Services closed its case on Adacelli's family about a year before she died.

**Child abuse deaths miscalculated**

Ed Vogel

1134 words

3 December 2005

The Las Vegas Review-Journal

LA

English

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By ED VOGEL

REVIEW-JOURNAL CAPITAL BUREAU

CARSON CITY - A state analysis has found that 114 of the children who died in Clark County from January 2001 to December 2004 might have died of abuse or neglect, more than three times the number previously calculated.

After examining death information from a variety of sources, the study found that 11 percent of the 1,041 child deaths in the county during those four years might have been due to maltreatment.

Assembly Majority Leader Barbara Buckley, D-Las Vegas, said the findings in the report are "disgraceful" and "unacceptable."

"One child death is too much, but this is truly shameful," Assemblywoman Sheila Leslie, D-Reno, said.

The higher figure reflects a more comprehensive look at deaths during the four-year time period. Previously, Clark County reported to the federal government that 35 children had died in Clark County as a result of abuse and neglect during those four years.

The numbers reported were used to measure the effectiveness of the state's child protective services.

Wrong numbers mean the conclusions drawn from those numbers were wrong.

For 2002, for example, Nevada's rate of children dying from maltreatment had been posted as one-quarter of the national average, but it now appears Nevada's true rate was much higher.

The Legislature will begin looking into the problem at the January meeting of the Audit Subcommittee, Buckley said.

A committee also will convene to oversee an external review by an independent panel, the Nevada Department of Health and Human Services announced Friday.

"The committee and the panel are to recommend legislative, administrative and systemic changes needed to improve Nevada child welfare," the department said in its report about the preliminary numbers.

Willden said the numbers are certain to get even worse when other Nevada counties are added in and more analysis is done.

The state's re-examination of the deaths of children under 18 in Clark County was spurred by five letters sent by the federal Administration for Children and Families to the state after officials there noticed that media reports about deaths of children indicated the actual number was greater than the number being reported by state agencies.

Many stories about the deaths of children have been reported in the Review-Journal, the Sun and on Las Vegas Valley television stations in the past year.

The newspapers and KLAS-TV also have been fighting for access to more information about deaths of children. A few months ago, for example, the newspapers and KLAS-TV sued the county to try to gain access to records regarding 2-year-old Adacelli Snyder, who died in a squalid trailer, starved to death and lying in her own excrement about a year after CPS had closed the family's case.

District Judge Stewart Bell ruled against the media, but hours after that ruling, lawyers representing Clark County took the unusual step of asking the courts to decide whether the public would be better served by the release of such information.

Clark County Manager Thom Reilly, a former Child Protective Services caseworker, is an advocate of opening the records to public scrutiny. Reilly has said he agrees with the media's argument that federal law seems to require providing more information to the public about child deaths, which conflicts with state law that forbids release of the information.

Buckley said she is drafting legislation to open records of children who died due to abuse or neglect.

Senate Minority Leader Dina Titus, D-Las Vegas, said officials should not be pointing fingers yet. She said there needs to be a determination if the problem occurred because of the shift of child welfare services from state to county control.

Gard Jameson, head of Children's Advocacy Alliance in Clark County, said he was disturbed by the high number of children's deaths, but did not want to criticize anyone at this point.

Willden said the death higher figure does not mean that Las Vegas police will begin arresting additional people for their involvement in the abuse or neglect of children.

"The police already have done the investigations," he said. The problem is in the way "these cases have not been properly classified in our system."

**Hurt foster child dies**

David Kihara

605 words

5 August 2006

The Las Vegas Review-Journal

1B

English

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By DAVID KIHARA

REVIEW-JOURNAL

A 7-month-old foster boy who was in critical condition after being injured died Friday.

"It is with great sadness that we announce today that a child in our foster care system has passed away," Tom Morion, director of Clark County Family Services, said in a statement.

Authorities refused to release the boy's name or any information about how the child was injured and said the matter remained under investigation.

"As the investigation continues, more information will be available," county spokeswoman Gina Olivares said.

The boy died about 1:30 p.m. Friday at a local hospital, said Capt. Terry Lesney of the Metropolitan Police Department's Crimes Against Youth & Family unit.

Police did not know the cause of death, but the boy had head injuries, Lesney said.

"We are continuing to work on the investigation," she said.

The boy was hurt Wednesday at his foster parent's house, in the 2700 block of Dune Cove Road, near Sahara Avenue and Fort Apache Road, police said.

The boy's foster mother called paramedics about 2 p.m., and when they arrived, they found that the child was not breathing, police said.

Authorities took the child to Summerlin Hospital Medical Center but then transferred him to either University Medical Center or Sunrise Hospital and Medical Center, police spokesman Jose Montoya said. He said he did not know which.

The boy had been living at the foster parent's house since January, said Lisa Teele, supervisor of the police's abuse and neglect unit.

Two other children, ages 2 and 3, also lived at the home. They were taken out of the home and placed in protective custody, police said.

Teele on Thursday said the two children were adopted by the family.



Colleen McCarty, Investigative Reporter  
**Lawsuit Filed Against Nevada Over Child Welfare**

Aug 31, 2006 10:44 AM EDT



A class action lawsuit was filed Wednesday against the state of Nevada and Clark County for failing to protect abused and neglected children in the child welfare system.

The National Center for Youth Law filed the lawsuit, which also personally names Governor Kenny Guinn, state Health and Human Services Director Michael Willden, and Clark

County officials.

The suit charges the defendants with causing serious harm to child in the system. The suit does not seek money, it asks for system-wide reform.

The suit points out that at least 79 children have died of abuse or neglect at the hands of their parents, foster parents, or other caregivers while under the watch of the Clark County Department of Family Services.

The suit also claims there has been much documentation of the county's failure to protect children in the foster care system and that the system hides "behind a veil of confidentiality meant to protect children and families, but which the county has used to shield itself from oversight and criticism."

Mike Willden, who is named in the lawsuit, spoke recently with *Eyewitness News* about the possibility of a lawsuit.

"A lawsuit on the other hand may be the best thing that happens because it'll ultimately help get services to kids sorely needing services. But it pulls away a lot of resources to go to the lawyer up mode," he said.

The lawsuit had Clark County officials scrambling for a response. About three and half hours following Wednesday afternoon's news conference, Assistant County Manager Darryl Martin talked about the lawsuit.

He says an overall plan for recommendations for improvements will be presented to the board of county commissioners sometime next month.

<http://www.lasvegasonline.com/global/story.asp?id=5345183&ClientType=Printable>

**Review highly critical of child welfare program**

City

Mike Kalil

852 Words

22 December 2006

The Las Vegas Review-Journal

9B

English

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By MIKE KALIL

## REVIEW-JOURNAL

Local authorities did not interview suspected child abuse victims privately, respond to maltreatment reports in a timely manner or conduct thorough investigations, according to experts who reviewed a sample of Clark County child welfare cases.

In short, child abuse or neglect allegations reported to authorities here do not receive a "real investigation," consultant Ed Cotton wrote in a scathing review of the county's troubled child welfare system.

"The fact that over 60 (percent) of the alleged child victims were never seen privately at any point must set off a major alarm that results in clear-cut policy and intense supervisory oversight," wrote Cotton, the former director of New Jersey's Division of Youth and Family Services.

The county released the review Thursday.

Cotton's team of reviewers examined 148 open abuse cases in October.

Their separate review of 1,352 randomly selected foster care and other out-of-home placement cases found:

- \* Documentation of cases is inconsistent.
- \* Almost all county child welfare workers viewed safety assessment worksheets as forms that must be completed rather than a tool to make a decision about a child's safety.
- \* Fewer than half of the children under county supervision were visited by caseworkers in the prior 30 days and half the parents caring for them hadn't been seen in more than 60 days.

Also, county child welfare workers told parents that it's OK for them to strike their children as long as they don't leave marks. "A CPS agency should not encourage parents to hit kids, nor should its agents imply to children that they are somehow able to stop it," Cotton wrote.

Caseworker training is nearly nonexistent and supervision is lax, Cotton reported.

workers' abilities to oversee Southern Nevada's most vulnerable children.

"Children were not being seen in time to properly evaluate their safety, reporting sources were seldom used for corroborating information, collateral contacts were scarce, and judgments made were often in conflict with the facts of the case," Cotton wrote.

"The failure to interview (teachers and other) reporters who have seen bruises and marks on children is unconscionable."

In his lengthy review, Cotton recommended updating policies, boosting staff training, reducing caseloads, implementing better supervision and monitoring front-line workers.

"They've got to hit every piece of it to be successful," he said from Florida Thursday.

Cotton, one of the nation's foremost child welfare experts, said Clark County's system is in serious trouble but not beyond repair.

"Most of the systems I deal with are in crisis. I've seen systems in this bad of shape that have gotten fixed," he said.

Jan. 31, 2007  
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## **DEPARTMENT OF FAMILY SERVICES: Child abuse report censored**

### **Report's missing pages listed examples of county agency's failures**

By LISA KIM BACH  
REVIEW-JOURNAL

Specific examples of how Clark County's Department of Family Services failed in its mission to protect abused or neglected children were excised from an independent consultant's report released to the public in December.

The censored material, obtained by the Review-Journal Tuesday, included eight pages of case details that illustrate why independent reviewers for the county were doubtful about the safety of more than one-third of the children in 1,352 cases reviewed by consultants. Child Welfare Consultant Ed Cotton conducted the review for Clark County from May to October of 2006.

"Were you asked by anyone in the department to take out or change anything?" Assemblywoman Susan Gerhardt, D-Henderson, asked Tuesday, when Cotton gave a presentation to the state-appointed Blue Ribbon Panel on Child Death Review for Southern Nevada.

"I wasn't told to take them out; I was asked to consider it," Cotton said during his first appearance before the panel.

Cotton complied with the request from Clark County Deputy District Attorney Mary-Anne Miller. He said it was his understanding that immediate action would be taken in cases where a child's safety was in question.

Cotton doesn't know whether that happened.

"So, has nothing been done to check on the status of the children in this report?" Gerhardt asked.

Clark County Department of Family Services Director Tom Morton couldn't answer that question. Morton said Tuesday was the first day the county had a complete list of the identities of the children in the cases highlighted by Cotton.

Cotton turned over the list of the names to Morton at Tuesday's meeting of the Child Death Review panel.

Morton said he had been directed not to talk about the eight pages in question.

In the end, Cotton agreed to rewrite the eight pages of case details in a more general fashion and release it to the panel.

Panel member Stu Fredlund said it seemed to him that obtaining information from the county has always been a challenge.

"It's a lack of trust," Fredlund said. "Information is not provided, and once again, it's exactly the same old issue."

Gerhardt agreed and added that withholding this type of information does nothing to restore the public's faith in the system.

"If what we're trying to accomplish is to move forward and change the public perception ... this doesn't do much to change the public perception," Gerhardt said.

Feb. 24, 2007  
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## **CHILD WELFARE: Inaction on problems with child welfare system unacceptable, assemblywoman warns**

By LISA KIRUBACH  
REVIEW-JOURNAL

The worst thing that can happen to Nevada's troubled child welfare system during the 2007 session is nothing, Assemblywoman Sheila Leslie said.

"There has to be a way to regain the public's confidence," said Leslie, D-Reno.

Leslie is sounding the call to action in the wake of serial tragedies and documented poor performance on the part of Clark County Family Services.

In 2006, at least four children taken into protective custody died, one foster child disappeared, and two lawsuits were filed against the county alleging child endangerment.

The year also saw a state review that red-flagged 79 child fatalities occurring between 2001 and 2004. The deaths might have been related to abuse or neglect but were not properly investigated. Another review found that in one-fifth of the 1,352 Family Services cases examined, independent consultants could not state with confidence that children were safe.

"I don't think the public will stand for inaction," said Leslie, who led a committee of lawmakers charged with examining issues related to children in government custody. "I can guarantee that the issue won't be ignored in the Assembly."

At least 13 bill drafts aimed at some aspect of child welfare or juvenile law will be vying for lawmakers' attention. If changes sought include:

- Prohibiting children ages 6 years and under from being placed in group-care settings such as Child Haven and requiring licensing for such institutions.
- Creating a new position within the Legislative Counsel Bureau to audit and monitor current child welfare cases.
- Giving the children's advocate in the attorney general's office the power to supervise and monitor open cases.
- Increasing public access to information on children who die while in government custody.
- Bolstering state authority over county family services agencies.

Gov. Jim Gibbons during his State of the State address proposed allocating \$7.3 million to boost the daily foster care rate from an average of \$21.50 to \$24 in 2008, and then to \$28 in 2009. Gibbons earmarked another \$8.8 million for child welfare.

Assemblywoman Susan Gerhardt, D-Henderson, said it's also vital that lawmakers look at implementing greater

**lasvegasnow.com**  
 BY WITNESS NEWS

**Colleen McCarty, Investigative Reporter**  
**Child Welfare: Goals and Timeline Determined**  
 March 21, 2007 12:02 AM EDT



Clark County has struggled to reform its child welfare system for more than a year now.

The J-Team broke its first story about the under-reporting of child deaths back in November of 2006. Since then, county commissioners have called protecting local children a top priority, and now they have put their pledge on paper.

Investigative Reporter Colleen McCarty remains on the forefront of this issue with the latest.

We've heard a lot in the last year about what needs to be done to keep kids in the Clark County system safe. On Tuesday, those details came with deadlines negotiated with child advocates who chose to debate instead of litigate.

Last summer representatives from the San Francisco-based Youth Law Center and the local chapter of the American Civil Liberties Union met with county leaders to discuss reforming the county's child welfare system.

From those talks a list of goals was born and a timeline to achieve them. Though the resulting statement of commitment is non-binding, Clark County commissioners voted to accept it.

Tom Morton, with the Clark County Department of Family Services, said, "There needs to be a sense of urgency here. And there's a tendency in some systems to be like the student in school who waits until the night before to study for the test. If you set timeframes that are too far off, people will wait to get started."

**Among the goals are:**

- Eliminate police removals of children from their homes without CPS involvement by June 30th.
- Stop placing children under the age of 3 at child haven by the end of the year.
- Implement a plan to recruit, support and retain foster parents by early summer.

Some of these issues are also being debated at the Nevada Legislature. If those bills pass, they would bump up the county's deadlines.

Pressure from the federal government and from the courts could also force things to happen more quickly. But this seems to be a good starting point.

<http://www.klas-tv.com/global/story.asp?s=6256782&ClientType=Printable>

Mr. WELLER. Just a few weeks ago, I noted there was a little girl that was found in a home—this was on April 8th, basically a month ago. As a father of a little baby girl, it breaks my heart a child was found in an upstairs bedroom, with two black eyes several days old, long lacerations on the back of the child's legs, scabbed over, signs of being malnourished. At age 3, she only weighed 19 pounds. This was 4 weeks ago. So, clearly, there is a failure going on in Clark County, Nevada.

Mr. Cotton, in your testimony about your work in reviewing what is occurring in Clark County, you mentioned in your review that you and your group called the hotline and, on average, it took about 25 minutes to get a response. I know when I call, wanting to buy something and I'm on for very long, my patience wears pretty thin. I think that's fairly common.

You mention that when investigations did occur in response to complaints, only about 31 percent of the child abuse neglect reports were appropriately initiated, which meant that they actually saw the victim, in order to assess what is happening, and review whether or not that child was safe.

You say in your testimony that 10 percent of the alleged victims were never seen by Clark County investigators during the investigation, and 60 percent were never interviewed privately before completing the investigation, which meant that the victim, a child, was interviewed while seated next to the alleged perpetrator.

You also mention that 57 percent of the people who stayed online, on the phone, made the call, made the report, only 50 percent of them were ever contacted, which means over half of those who called and complained were never followed up with.

Can you share more details? Also, as you share more details—you made some recommendations. Had they done it in the proper way, what difference would it have made for the children impacted?

Mr. COTTON. Yes, thank you. To first start out with the case you just talked about, I think it's a valuable situation to talk about, because when my report came out, shortly after it, it was met with sort of an attitude that things are all fixed. Clearly, there were many prior involvements with this child that you just talked about, as there are others.

I think what we repeatedly saw was workers simply didn't know what they were supposed to do. We almost use these reviews as training sessions to say, "Go out and do this." What bothered me a lot was I was called and said, "They don't work for you, you can't tell them to go do these things," which is kind of interesting, because somebody needed to.

Just seeing kids who hadn't been seen for 3 or 4 months, we saw situations—I won't get graphic—but situations where a child who had been very badly injured, requiring a lot of stitches was asked with Mom sitting next to him, Mom said he fell out of bed and got those. The worker looked over and said, "Did you fall out of bed?" He said, "I could have." Unsubstantiated, done, out the door.

I think caseload doesn't take the place of common sense. The fact that you have a lot of cases and training and understanding what's going on with families isn't just a factor of big caseloads. So, I think we did repeatedly see that.

We saw situations where safety and risk assessment documents—these are validated tools, research-validated, that actually work. They greatly reduced repeat abuse in other states, but the workers saw them as a form. They were never trained to use them. What we found were large numbers of them didn't gather enough information to use the form properly, to make it. They simply said, "Check, check, check, check, and I'm done."

So, just in terms of what you're supposed to look for, when we suggested to people that interview children privately, some of them stared at us. Others said, "Well, that's a good idea," but they had never been told that.

Others did get creative. I will tell you there were some very good workers. For example, some would ask, "Well, how do I interview a baby, check on a baby in a foster home, to make sure he is okay?" Change the baby's diaper while you're there. You don't need to say, "I'm looking for marks," just change the diaper and see if there are marks.

So, I think there are a lot of creative ways. A child who is afraid to talk, because he keeps looking at the door, because he's afraid Dad is going to walk through the door and hear it, take him to a park and interview him, where he can see 100 yards in every direction, so nobody can see that. So, I don't know if I answered everything—

Mr. WELLER. Mr. Cotton, as I understand in Clark County, it's a county, so this is a county-based program. Is that correct?

Mr. COTTON. That's—

Mr. WELLER. Who is in charge? Who administers the Clark County program?

Mr. COTTON. There is a director of the department of family services who reports to an assistant commissioner of social services, and then the county is actually a commissioner system.

Mr. WELLER. So, the ultimate authority, the ultimate decision-makers are, like, the county board of supervisors, or commissioners?

Mr. COTTON. It goes to county commissioners, who actually then report to a county manager, who is in charge of all the commissioners of roads and everything.

Mr. WELLER. So, are the commissioners elected officials?

Mr. COTTON. Yes.

Mr. WELLER. Okay. So, essentially, the county board—that's how we would refer to it in Will County, Illinois, and the district I represent—but the county board of commissioners, they are the ultimate authority and the ultimate decisionmakers, with oversight over the Clark County program, is that correct?

Mr. COTTON. That's correct.

Mr. WELLER. Okay, thank you. Mr. Chairman, you have been generous. I know the red light has been on.

Chairman MCDERMOTT. Thank you. Ms. Berkley?

Ms. BERKLEY. Thank you all for being here. This has been most informative, and I appreciate the information. Both Mr. Porter and I represent parts of Clark County. I am not speaking for him, but we are painfully aware of the problems that we have. A good deal of Clark County, as you are aware, is the fastest growing community in the United States. It has every societal factor that would lend itself to this sort of situation.

Let me ask you something, because we spoke with Mr. Morton, who is the new head of the Clark County services, and he shared a lot of your concerns, because our question to him is, "What can I do, on the Federal level, to help him do his job?"

Let me ask you something. One of the things that he pointed to was the extraordinary caseload. He said when he got there, that

the average caseload was 39 cases per worker. One had almost 100, or just over 100. I can't see, if you have that great of a caseload, if the recommendation is 12 cases and the workers in Clark County are doing 3 times that, how they could possibly be able to interview all the teachers and the neighbors and the reporter.

I am wondering if it's just a matter of additional funding, because then this segues over to training. If I am just getting out of college, and I want to do social work, what are my qualifications? It seems, Mr. Cotton, the questions that you suggested, it doesn't seem that you have to be a genius to figure any of that out. I can't understand what type of training is necessary in order to do this kind of work.

Now, I do know the burn-out rate is extraordinary, so you've got on-the-job training, we throw people into this line of work. After 2 years, when they are finally proficient, they are also burned out. So, then you are redoing this every couple of years, and you never get an experienced and competent caseworkers force, because they just can't handle that. I could certainly understand that.

I am also very curious, if we don't have to do it on the record, who it was that you spoke to that told you not to interfere, because if they're still there, I think we have a certain amount of people that we know on the county commission, and certainly the county manager, that we would like to share that information. That, to me, is outrageous.

So, any additional input that you can give me when it comes to appropriate training, when it comes to funding—is this a partnership with the State? Does the State kick in additional money as well? If you're not getting adequate funding from the states, how does that impact, as well?

What do you do with—one of the things—and I'm sorry to ramble, but one of the things that Mr. Morton suggested is additional funding for other societal issues that contribute to child abuse and the increase in the need for foster families. One of them is we have a huge methamphetamine problem in Clark County. We end up having to remove a lot of children.

So, we have got a child haven, and that is where we put our neglected and abused children, while they are waiting for intervention. It is beyond over-crowded. We don't have enough cottages for these kids. We don't have enough people working there. So, it's one issue after another.

I can understand when you start asking questions, it's a "Yes, but, what are you doing?" "Yes, but," "Can you do this?" "Yes, but," and I think there is a lot of yes-butts right now in Clark County, too. It is a national shame, and it's certainly a terrible embarrassment. What do I do, sitting here, to help these people?

Mr. COTTON. If I could respond, there were a lot of questions in there.

[Laughter.]

Ms. BERKLEY. I know. There is a lot to—

Mr. COTTON. I have no problem at all talking about the interference, as you call it. Basically, I was called into the management team, who said, "Let us know about issues, because they don't work for you," and it was the whole management team who told me that.

Ms. BERKLEY. Are they still there? I know there has been a huge shake-up.

Mr. COTTON. Three-fourths of them are.

Ms. BERKLEY. Really?

Mr. COTTON. At that point—I don't want to get off onto that tangent.

Ms. BERKLEY. Yes.

Mr. COTTON. At that point, basically, when we started calling and nothing was happening, we sort of, behind the scenes, made sure things got done, because just calling wasn't helping.

The second issue, and I know this is not going to be a popular statement, but about the caseload reductions, one of the things I have to go back to, looking at what is going on in caseloads—and having been a worker for a while, I know that when you've got big caseloads, there is not a lot you can do—but one of the things that happened in Illinois with the big caseload reductions is when all the in-home services were transferred to child protection—I had a great management team—we looked at every single case.

Almost 40 percent of them we were able to close. They weren't getting any services, they didn't need any services, but as long as they're open, they're counted, and they are required visits, and they require caseworker time. Many states have the same requirement to see a 14-year-old who was neglected 4 years ago, as they do a baby who is at high risk, rather than differentiating between those.

So, I think that, certainly, caseloads have to be reduced. Additional staff is one way. Another way is looking at what's open, and does it need to be open. I think the management team needs to do that.

Ms. BERKLEY. That is headed by Mr. Morton now, of Clark County.

Mr. COTTON. Yes.

Mr. BELL. You know, I would add that the situation that you describe in Clark County is very complex, and the response to it is multi-tiered.

It is not so dissimilar to what you would have seen in New York City in 1994, and probably in Illinois, before the changes happened there. The catalyst in New York City was the death of Elisa Izquierdo in 1995. The response to that was a comprehensive look at the system. In Clark County, what has to occur is, first and foremost, there has to be a building of infrastructure to run a quality program.

Now, I agree with Mr. Cotton, that you can't just say, "caseload, caseload, caseload," and that's the answer. Caseload is a factor, and one of the factors that has to be addressed.

Ultimately, there has got to be a management structure in place that actually manages and believes that it can be successful in managing a program. The history of what has evolved in Clark County also has to be addressed. The history of this longstanding bifurcated system. The history of the State being responsible, and then turning over responsibility to the county, but there not being an infrastructure in place to receive that responsibility, and operating at a point now, as though it is just a Clark County issue.

It's a statewide issue, and there must be accountability at both the State social services level, as well as at the county social serv-

ices level, and I think any influence that Congress can provide, in terms of making sure that each of those entities upholds its individual responsibility would absolutely be critical.

Another key point that I think worked wonders in changing how people did work in New York City was describing what a quality investigation looked like. We had thousands of workers who were each making up the rules on each individual investigation. We created a quality case practice guide, not a must-follow, but a guide that framed what quality looked like. We trained supervisors in that, as well as workers in that, so that people had a sense of what they were required to do, such as making sure that you interview children away from the alleged perpetrator.

I think that the critical challenge is also how do we broaden what we're trying to do in Clark County, beyond just the government social service entity, and engage the communities in being a part of the job protection effort in that county?

As in New York City, as I'm sure happened in Illinois and in Los Angeles County, until you engage a cross-systems, community-based support around protecting vulnerable children where they live, government cannot do the job that we hold it responsible for doing. In Clark County, first and foremost, you have got to build an infrastructure to manage your child welfare system, and be focused on a clear plan of action, which is developing right now, but does not currently exist, in terms of that county structure.

Chairman MCDERMOTT. Thank you. We are going to move on to Mr. Porter.

Mr. PORTER. Thank you. I thank you all, again, for your testimony. Mr. Cotton, if I could summarize why you were hired by Clark County to come in—that was because there were at least 79 children who had died of abuse or neglect at the hands of their parents, foster parents, or care givers, while under the watch of the Clark County Department of Family Service. Is that one of the reasons you were brought in to do your investigation?

Mr. COTTON. Yes. Actually, there was a national panel put together to look at those 79 deaths, and how the county responded to them, and a lot of other issues, not just family services, but the police, the district attorney.

When that report was written—and I was the only Nevada member on that, there were forensic pathologists, people from all over the country—when that report was written, Clark County looked at it, thought there were major issues, asked me to review, I think, about 135 cases.

Part-way into that, I was about done with 85, I gave them an interim report. I think it was like a light going off, going, “Oh, my gosh, what are we going to do?” At that point, they asked me to do every—this 1,352 cases refers to every child under the age of 5 that has an open case in Clark County. So, at that point, we looked at every kid under five.

Mr. PORTER. Most importantly, I know that Clark County is taking steps to try to improve their problems, and I think the State has been involved. Do you think the problem is adequately being taken care of? Is it being fixed in Clark County, or is it a Band-Aid?

Mr. COTTON. It's very hard to tell, because one of the things I do want to differentiate—and I think this happened in both Illinois and New York—was when the systems were in this bad of shape, everything was put on the table. Everything was wide open. The media was brought in to just about every meeting we had. We said, "We've got a big problem, we're going to fix it."

That's not what I see happening in Clark County right now. The most recent case you talked about is, again, behind closed doors. "Let's not discuss it, let's not talk about what's going on." There are—well, I won't get into that—there are many other issues that I am just concerned about.

Some of the reaction was, "Let's try to make the problem seem less than it is," rather than saying, "We've got a big problem, let's fix it," and I think that is what happened in both Illinois and New York. We said, "We've got to fix it," we weren't saying, "Let's see if we can mitigate it in some way." Everything was wide open. I don't feel that it is, right now.

Mr. PORTER. What are some of the things you think are not being reviewed in public? What are some of those things, specifically?

Mr. COTTON. Well, it's very interesting too—when Mr. Bell talks about the model investigation, we provided a model of practice for investigations for Clark County staff. We used it to evaluate families, or to evaluate the files. It was never provided to workers for training, the decision was made not to go with it.

So, we don't know that they have a model. It looks piecemeal. They are given a risk assessment, they are given a safety assessment. Coordinating those into one model of practice, which I think is kind of what you were talking about, we provided that but it was never used, and still hasn't been used, as far as I know.

So, I think that's part of the issue. I think it's kind of overwhelming, because you're not just talking about investigations, all the afterward caseworkers dealing with the foster families, other situations.

There are some workers who would say, "I don't visit the kids in foster homes, because they're safe in foster homes." There is a kid that's been beaten to death in a foster—allegedly beaten to death—in a foster home. There is a child missing, a 3-year-old who has been missing, for 11 months from a foster home.

So, for workers to assume that a child is safe because they're in a foster home, "So, I don't have to visit them that frequently," is—it's absurd.

Mr. PORTER. Are there some other steps that you think we should take as Congress at this point with that particular situation in Clark County?

Mr. COTTON. I'm really not sure what steps you could take, as Congress.

I think that oversight within the State of Nevada, that—again, in Illinois and New York, when systems got fixed, the media was not the enemy. They became the partner. I think in Nevada, they're still seen as the enemy. They're still seen as, "Let's not get everybody on the same page here, and work together," it's, "This advocate is bothering us. This person is a problem. This lawsuit is

a pain,” rather than, “This thing is pointing out issues we need to address.”

Let me give you, I’m sorry, one more quick example. When I did this report, we all knew, when it was going to be released publicly, it was going to be a bombshell, and in fact, negative. I repeatedly asked Clark County staff, “Do you want to do this together, so we can talk about not just what’s in it, but where we’re going from here, and that we know about it, and we’re fixing it?”

I repeatedly was told, “That’s a good idea,” and it never happened. It was dumped on the press 2 days before Christmas, hoping there wouldn’t be much coverage, which is, to me, a strange way of doing business.

Mr. PORTER. Thank you, Mr. Chairman.

Chairman MCDERMOTT. Thank you. Mr. Lewis will inquire.

Mr. LEWIS. Thank you very much, Mr. Chairman, and thank you so much for holding this hearing today. I thank members of the panel for being here. It is good to see you again, Mr. Bell.

I would just like to know, from members of the panel, any one of you, am I missing something? It appears to me that more and more children, whether a part of the foster care system, or whether they’re outside of the system, are just falling through the cracks.

There are all of these dramatic stories all over the country, where children, young kids, are being abused, harmed by relatives, some boyfriends or girlfriends. What’s happening? Tell me.

Mr. BELL. I would suggest, Congressman, that you’re not missing something. I think the challenge here is more of a challenge of leadership and commitment than it is one of knowing—

Mr. LEWIS. Is it because of more press attention? What’s going on in America with children?

Mr. BELL. Well, what’s happening in America with children, and vulnerable children, is that families are overcome by the issues of poverty, the issues of substance abuse, the issues of domestic violence. Those issues result in children being harmed.

I think the other side of that is that society is not responding in the way that it needs to for a very small number, in comparison, of children. There are a half-million children in foster care in this country. There are a million children who are abused and neglected in this country each year. That’s a small percent, if you look at the larger percentage of children in this country.

My contention—and I would believe the contention of members of this panel—is that we can fix this, if we commit to the leadership and the attention necessary to make it happen.

In New York City, in Illinois, the chief politician, the Governor in Illinois—at that point in time, Rudy Giuliani, and later, Mike Bloomberg—said, “I own this problem, and it is my problem to fix, and I’m going to fix it through the person that I have appointed to run the system. I’m going to give them the resources to hire competent leadership and competent managers. I am going to focus on training their frontline staff. I am going to make sure that I give the same kind of attention to vulnerable children as I give to the police department, as I give to the fire department, as I give to education.”

I think that the first step in this process is we have got to elevate the needs of vulnerable children to that same level, and that

even in tough budget times, the police department gets spared as much as possible. Children get cut. We have got to change that approach. Once—

Mr. LEWIS. Well, wait, Mr. Bell, and other members of the panel. Do you think that we have come to that point in the history of our country, where we need to put children and families on the same level that we put other national concerns?

Maybe we need a department, a cabinet-level department, of family and children services, or children and family services. Are we ready?

Mr. BELL. I believe—

Mr. LEWIS. The Chairman raised a point earlier about whether you can have 50 different standards. Should they be Federal standards?

Mr. BELL. I believe that there should be Federal standards. I believe that HHS—and I don't think restructuring is—

Mr. LEWIS. Why dump it on HHS?

Mr. BELL. No. What I'm saying is that I don't believe that another restructuring is the answer. I think that we need to put our energy in place in the communities, where they need to be. We need to take on a sense of responsibility at a local leadership level.

Children are raised in communities. Families are dying in communities. We have to get local politicians—

Mr. LEWIS. Mr. Bell, it is not working. I know in Atlanta, in Fulton County, we changed department heads constantly.

Mr. BELL. Right, and that is a part of the problem. On average, the tenure of a child welfare director in this country is 18 months to 2 years. There is absolutely no Fortune 500 company that we would invest in that changed its CEO every 18 months to 2 years.

When I speak about leadership and commitment, I am really saying, "Let's do what we know how to do." All of us in this room, if asked about how successful we have been, will point to how we have raised our children, and point to what we know how to do, in terms of how to raise children. We simply need to do that same thing for the vulnerable children in this country.

In New York City, we have 59 community districts. It wasn't until we focused attention to recognize that 18 of those 59 community districts were producing 60 percent of the kids who were coming into foster care, and when we targeted our attention, whether children were—put the services where the children were, we changed the outcomes for those children.

We know where these children are in this country. If we were to put concentrated attention in those places where those children are, and do the things that have been done in other jurisdictions, and hold leadership accountable, we could change the outcomes for the children that we're talking about in this room. Clark County can be fixed. Atlanta and the State of Georgia can be fixed. Philadelphia can be fixed.

If you can fix the State of Illinois—and fix doesn't mean that you won't have problems with children, because those problems are happening in families. We can respond in a way that changes the outcomes for those children, and we can prevent some of those problems from happening, if we simply do some of the same things that have already happened in many jurisdictions in this country.

Chairman MCDERMOTT. Thank you very much. Mr. Davis will inquire.

Mr. DAVIS. Thank you, Mr. Chairman. I know you haven't had a lot to say, Ms. Ashby, so I will make sure I point my question toward you so you can talk today.

Ms. ASHBY. Thank you.

Mr. DAVIS. Let me pose a general proposition, Ms. Ashby. I will ask you to be the first one to respond to it. Obviously, we have spent a lot of time today talking about the clear and present crises that exist in the system: children who are physically getting hurt; children who are being physically and emotionally abused. I take it that Clark County, Nevada is an especially poor example of a crisis.

Let me try to reorient the conversation, though, a little bit. At best, it seems that the foster care system is one that is a stop gap in this country. It walks into a crisis point in a child's life. It places that child in a home for a temporary period of time. Essentially, we hope that no additional damage is done to the child.

How do we measure long-term outcomes in the foster care system? How do we measure whether or not the kids who were placed in the system end up going to college, end up working productively, end up becoming parents, end up becoming successful, productive members of the community?

I understand we're trying to prevent them from getting hurt and abused, but how do we have a much more ambitious vision of making them productive citizens in the community? Do we have any measurements in place, as to how foster kids are doing, once they age out of foster care? Ms. Ashby, do you want to pick up on that?

Chairman MCDERMOTT. May I just interrupt, for just 1 second?

Ms. ASHBY. Certainly.

Chairman MCDERMOTT. The reason Mr. Weller and I are leaving is that we've got a bill on the floor we have got to go deal with. So, it's not that we disrespect Mr. Davis's question.

Mr. DAVIS. That's all right.

Chairman MCDERMOTT. We want to thank you all for what you have done. Thank you very much. We will talk with you. If you have further things that you think of, after listening to one another talk, write to the Subcommittee, please. Thank you.

Ms. ASHBY. Thank you. Well, I will try to respond to your question, first. Then there are a couple of things that I would like to say, with respect to other things that have been said this morning.

Mr. DAVIS. Respond to my question.

[Laughter.]

Ms. ASHBY. I will respond to your—

Mr. DAVIS. Thank you.

Ms. ASHBY. I will do that. The short, direct answer is no, there are no measures that I am aware of, that would look at the long-term effects of people who have been in child care—I'm sorry, the child welfare system.

If they remain in and age-out, there are lots of studies and lots of examples of the poor outcomes for that group of people. Yes, they are the ones who end up incarcerated, for the most part. They have mental health problems. They are the least educated. Many end up homeless.

The outcomes for young people who age out of the child welfare system are not good at all, and there are a number of studies that would support that.

In terms of children that are adopted, or somehow have a permanent situation, I don't know of any studies. There may very well be studies that have looked at that, but I am not aware of any. I would imagine that their outcomes are dependent a lot on the families that end up adopting them. You know, like other—

Mr. DAVIS. Well, let me—

Ms. ASHBY [continuing]. Individuals, a lot depends on the parents.

Mr. DAVIS. Well, let me stop you, just for the sake of—

Ms. ASHBY. Certainly.

Mr. DAVIS [continuing]. Try and see if we can get a factual foundation around this.

Does anyone on the panel know what percentage of children who go in foster care end up in the work place within 4 years of the time they age out? Someone even have a number?

Mr. BELL. Right now, the body of knowledge that we have on this subject matter really is related to those kids who age out of foster care. There have been a number of studies that have been done recently: the Northwest Alumni Study done by Casey Family Programs; Chapin Hall has done a study, the Midwest Alumni Study.

What we know is that, for children who age out of foster care—the general population graduates from a 4-year college at about a 28-percent rate. Children who age out of foster care graduate at about a 3 percent rate.

We know that children who age out of foster care are not employed at the same regularity as children—young adults—in the general population.

We know that within 2 years of leaving a foster care system, that 50 percent of them are still on welfare. We know that 50 percent of them, by the age of 25, still do not have a high school diploma. So, there are education outcomes, there are employment outcomes, and the health and well-being outcomes are challenged. We think it's connected with being in foster care.

Casey Family Programs has embarked on something we call a 20/20 strategy, which is focused on this research piece that you're talking about, so that we know what is happening with children in foster care, focused on reducing the number of kids in foster care, and reinvesting those savings, but also concentrating on education, employment, and mental health outcomes for kids in care.

The standards that you ask about, in terms of how do we know whether or not we've been successful, are the same standards that we look to for our own children. If they graduate from high school and college, if they have good health and mental health outcomes, and if they are able to get jobs and have livable wages to build their families. We know that far too many kids in foster care don't get that.

Mr. DAVIS. Well, let me—if Mr. Lewis will indulge me to ask one question and get your response before we finish up today—the other thing that was striking to me, as I was preparing for this

hearing, is the disproportionate number of children who are African American who are in the system.

People don't end up in foster care because their families are poor. Obviously, there are a lot of more poor black people, in relative terms, than poor white people, in relative terms. That's not how people end up in foster care.

So, I am trying to get some handle on why 35 percent of the children in foster care in this country are of one particular race, when only 15 percent of the children in this country are black. Is it reporting issues? Is it that, for whatever reason, systems are quick to pull the trigger and take kids out of a home if it's a black family?

Can any couple of you speak to that issue? I appreciate Mr. Lewis indulging me on that question.

Ms. ASHBY. We are doing a study for this Committee on that topic. I can't answer your question right now, because we're in the process of doing the study.

I would like to say some things, however, about the Federal role—

Mr. DAVIS [continuing]. Answer the question—

Mr. BELL. I would like to touch on—

Ms. ASHBY. I understand, but there are some things, questions that have been raised about the Federal role in all of this.

Mr. DAVIS. Hold for 1 second. You will have an opportunity to do that, but because my time is limited, I need to make sure I get an answer to my question. Mr. Bell?

Mr. BELL. Right. The answer to your question is it's a decision-making issue. It's not because families of color abuse or neglect their children at a rate that is higher than families that are not of color.

It's the decision that gets made on the spot, on the ground, when judgments are being made about whether or not something happened, about what the remedy is, if something did happen. Is the family strong enough to take care of this child, or does this family need protective custody, in order to meet the needs of this child?

Decisions that are made with respect to is this family ready to receive their child back from foster care, are they strong enough, in order to give the children what they need, and to carry them through life. Those are perception issues that are deeply embedded in how we perceive families in this country, how we perceive individual groups in this country.

So, the challenge in overcoming it, aside from trying to fix the larger societal perspective on the strength or relative weakness of African American families, I think, is focused on how we make decisions in child protective services, and making sure that no single individual is making decisions solely based on perception, but that there are standards that are used for every single judgment that is being made, and that's where quality supervision comes in, and leadership around management comes in, in making sure that we make the right protective decision.

It is absolutely true, that there are African American families that are abusing and neglecting their children. It is absolutely true that there are African American families who need to have children in foster care, but it is also true that there are more African Amer-

ican children in foster care than should be there, just as I believe that there are more children, in general, in foster care than should be there.

Ms. HOLTON. If I could just very briefly jump in, I concur with Mr. Bell's remarks, but I would like also to say that I think poverty is a factor, and the over-representation of—

Mr. DAVIS. Oh, there is no question about that.

Ms. HOLTON. 100 percent, or at least 99.9 percent of the families that came before me in court, as a J&DR judge, with foster care matters were poor. We just, frankly, stopped doing the income affidavits at some point. It was almost not worth it for our—appointing counsel, for instance, because white/black/Hispanic, everybody.

The ability to obtain services and help without going through the formal system, absolutely, is much better in communities where there is money. Folks who don't know how to access services, or there aren't services available if they can't pay for them, their kids end up—they end up in more conflict within the families, and the kids end up neglected more, and they end up needing foster care.

Mr. DAVIS. Understand, I absolutely don't mean to say that poverty doesn't play a role, I just wanted to make the point that poverty, by itself, didn't strike me as being predictive.

Ms. NELSON. I agree with what William has said. I would also like to add two things. First, the disproportionality begins even before the call comes to the State agency. It begins with who reports.

In many jurisdictions, African American children and families are reported at higher incidents, in very similar circumstances that other children might not be reported. So, that starts, that decision-making starts from even the person who calls in the report to the agency.

The other thing I would just note is that, certainly in Iowa, and I think in many jurisdictions, we see a very similar level of disproportionality with Native American children.

Mr. COTTON. Could I add very quickly that a second point is that the African American children tend to remain in foster care longer, and I think that ties to lots of issues, but one big one, which we haven't mentioned yet, and that's housing, that you have to have an appropriate residence to return a child to.

A lot of times, you're getting workers looking at the parental home, because of poverty and other issues, and at that point saying, "I can't return the child home yet, because of housing issues."

So, I know that ties to poverty somewhat, but over and over when we asked individual caseworkers what did they need to return kids home, they said, "Housing."

Mr. LEWIS. [Presiding] Ms. Ashby, you wanted to say something about the Federal role.

Ms. ASHBY. Yes. A question was raised earlier about Clark County, and what can be done at the Federal level. Perhaps what the role of Congress might be—or this Subcommittee might be—to encourage HHS—and HHS is the Federal agency who is responsible for oversight of State child welfare programs. The administration for children and families.

So, there is a Federal agency that has that responsibility now. For a situation that seems as bad and as dire as Clark County—

and I'm sure that's not a unique county for that—the Federal Government can come in and look at the situation, and make recommendations. The Federal Government can withhold money, as the ultimate weapon. I know withholding money toward children, that wouldn't happen unless it were absolutely necessary.

There are things that can be done, and the situation doesn't have to keep going on as it is.

Mr. LEWIS. Well, let me, on behalf of the Chairman, the Ranking Member, and Members of the Subcommittee, thank each and every one of you for your testimony and for your being here today.

I want to thank the first lady of Virginia. Say hello to the Governor. It's good to see you. Thank you, Ms. Ashby, Mr. Bell, Ms. Nelson, Mr. Cotton. We may be calling on you again. I think this is an issue that, as a congress, and as a Subcommittee, we must continue to deal with.

We have unbelievable problems facing our children, and we must confront these problems head on, and not try to sweep them under the table in some dark corner, never to be seen or heard from. So, thank you again, for being here.

[Whereupon, at 11:20 a.m., the hearing was adjourned.]

[Submissions for the Record follow:]



**HEARING  
ON  
CHALLENGES FACING  
THE  
CHILD WELFARE SYSTEM**

**UNITED STATES  
HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON INCOME SECURITY  
AND FAMILY SUPPORT**

**May 15, 2007**

The Child Welfare League of America (CWLA), representing public and private nonprofit, child-serving member agencies across the country, is pleased to submit testimony to the Subcommittee on Income Security and Family Support. CWLA commends the Subcommittee and its members for taking up the issue of child welfare. We feel that the children and the families affected by the child welfare system should become a national priority and we hope this hearing will be the start of reaching that goal.

Too often the policy debate in Washington is framed by two numbers, the 513,000 children in foster care placements at the end of the federal fiscal year and the approximate \$7 billion in federal funds spent on the foster care and adoption assistance systems under the Title IV-E entitlement. In reality these numbers leave out other critical parts of child welfare. It ignores the fact that 800,000 children spend at least some time in foster care each year. It does not count the 3.3 million reports of abuse and neglect, the 899,000 children substantiated as abused or neglected, the more than 350,000 children who are substantiated as abused or neglected who do not receive follow up services, the 1.5 million families who receive prevention services,<sup>1</sup> the 22,000 youth who leave foster care simply because they became too "old" or they "aged-out" of the system and all the family members who are attached to these children.<sup>2</sup>

The Child Welfare League of America urges this Subcommittee and all policymakers in Washington to keep their focus on all of these children and families in any consideration of reform or investment. Too often the debate begins and ends with the unsubstantiated concept that the federal government already spends enough on child welfare through Title IV-E. It's not clear what formula this is based on but it is clear that these funds address only some of the foster care maintenance payments, some of special needs adoption assistance and some of the vital child welfare workforce needs that are essential to reunification and permanency. In fact the current federal eligibility requirements result in decreased support for these services each year.

CWLA urges the subcommittee to examine what is needed to fully support the range of services from prevention to foster care to permanency and then and only then to determine how much of the \$2.7 trillion that makes up the federal budget can be devoted to the child welfare system.

#### **BUILDING BLOCKS OF A COMPREHENSIVE CHILD WELFARE SYSTEM**

A comprehensive child welfare system can be broadly framed around six areas. The first four basic elements to child welfare include prevention, intervention, reunification and permanency. However, to have a successful comprehensive child welfare system, two other critical components, access to health care including mental health and a strong child welfare workforce, are also required. To reduce the number of children in foster care and to protect our nation's children from harm we need to address not only prevention, intervention, reunification and permanency, but also access to health care including mental health and a strategies to support a strong child welfare workforce.

### **PREVENTION, INTERVENTION, REUNIFICATION AND PERMANENCY**

Many services and programs fit into several categories that form the child welfare system. For example, access to substance abuse treatment or mental health services may be a key element of prevention services. These services can also be a necessary component of intervention as well a requirement before reunification of a family is possible, or to assure a permanent family for a child in the child welfare system.

#### **Prevention**

Studies have demonstrated the effectiveness or promise of several approaches to prevention of child maltreatment. Programs such as home visiting have produced evidence that positively impacted a variety of outcomes for children and families, including prevention of abuse and neglect<sup>3</sup>. Similarly, high quality pre-kindergarten programs such as the Chicago Child Parent Centers and Head Start, that include parental involvement and supports, have also demonstrated effectiveness.

Independent studies have found that the financial savings achieved by the most effective of these approaches far exceeds their costs. Rigorous cost-benefit analyses conducted by the Washington State Institute for Public Policy showed cost savings for several pre-kindergarten, family support, and home visitation programs as well as for Parent-Child Interaction Therapy, a center-based intervention that provides direct coaching to parents as they interact with their young children.<sup>4</sup>

#### *Home visiting*

Home visitation programs refers to different model programs that provide in-home visits to targeted vulnerable or new families. Home visitation programs—either stand-alone programs or center-based programs—serve at least 400,000 children annually between the ages of 0 and 5.<sup>5</sup> Eligible families may receive services as early as the prenatal stage. A child's early years are the most critical for optimal development and provide the foundation necessary for success in school and life. Therefore, home visiting services have the potential of making a tremendous impact on the life of a child and his or her family. Nurses, professionals, or other trained members of the community conduct home visits on a weekly, bimonthly, or monthly basis. Program goals could include an increase in positive parenting practices, an improvement in the health of the entire family, an increase in the family's ability to be self-sufficient, or enhanced school readiness for the children.

Quality early childhood home visitation programs lead to several positive outcomes for children and families, including a reduction in child maltreatment. Annual data indicates that approximately 40% of the 899,000 children who have been substantiated as abused and neglected, but not removed from the home, never receive follow-up services. More widely available and implemented home visitation services could help address this drastic shortcoming.

Home visitation services stabilize at-risk families. Research shows that families who receive at least 15 home visits have less perceived stress and maternal depression, while also expressing higher levels of paternal competence.<sup>7</sup> Home visitation programs may

also reduce the disproportionality or overrepresentation of children and families of color, while improving outcomes for these families.

#### *Family Support Services*

Family Support Services (FSS) were developed to respond to the concerns, interests, and needs of families within a community. Family Support Services are targeted to families with difficulties and concerns related to the proper functioning of the family and care of the children. The focus of the program is on prevention. The services address the need to improve the well-being of a child, family functioning, and the parent's ability to provide for the family, before they are in crisis. Family support programs work with outside community organizations such as schools and child welfare agencies. The aim is to provide temporary relief to families and to teach them how to better nurture their children. Involvement in these services is voluntary. Types of services include a broad spectrum of community-based activities promoting the safety and well-being of children and families such as structured activities involving parents and children, respite care services for parents and caregivers, parenting skills training, and information and referral services. Programs may also include services outside the traditional scope of child welfare, such as health care, education, and employment.

#### **Intervention**

Early intervention services play a vital role for children and families who may already be in trouble. Early intervention services may include services such as child care, housing, job training, and substance abuse services. These are the kind of non-traditional child welfare services that can enable families to stay together to the fullest extent possible.

To better target the needs of families a number of child protective service systems (CPS) utilize differential response which allows CPS to respond differently to accepted reports of child abuse and neglect. Family preservation services are additional programs which may incorporate several of these services in an effort to prevent the removal of a child.

Community-based child protection programs have demonstrated that many families can be helped before there is a need for protective intervention with the family. Often, the family can identify what is needed, be connected to resources and supports, and contact with the formal child welfare system can be averted. Often, after a formal report has been made, a child can be maintained safely at home with sufficient supports, clear expectations, and monitoring.

#### *Differential Response*

Differential response is a developing approach being implemented by a number of states which allows child protective services (CPS) systems to respond differently to accepted reports of child abuse and neglect, based on the circumstances.

Several states are implementing these models that are sometimes referred to as multiple track or alternate response. According to CWLA Best Practices Guidelines: Child Maltreatment in Foster Care (2003), "these approaches recognize the variety in nature of reports and that one approach does not meet the needs of every case."<sup>14</sup> This approach

may allow some CPS systems to provide services to a family without a formal complaint of abuse and neglect.

#### *Substance abuse treatment*

Alcohol and other drug problems devastate the lives of hundreds of thousands of children and their families each year. A major factor in child abuse and neglect, substance abuse is a factor in one to two-thirds of cases of children with substantiated reports of abuse and neglect and in two-thirds of cases of children in foster care.<sup>8</sup> Furthermore, children whose parents use drugs or alcohol are three times more likely to be abused, and four times more likely to suffer from neglect.<sup>9</sup> In addition, children from families with substance abuse problems tend to come to the attention of child welfare agencies younger than other children, are more likely than other children to be placed in out-of-home care, and once in out-of-home care, are likely to remain there longer.<sup>10</sup>

Many recent studies demonstrate that most substance abuse is a treatable public health issue with cost-effective solutions, and that treatment is effective for families involved with the child welfare system. Treatment has been shown to reduce alcohol and drug use and lower health care costs, as well as to increase family functioning.<sup>11</sup>

Too often, a lack of substance abuse treatment capacity poses a significant barrier to success. According to the Substance Abuse and Mental Health Services Administration's (SAMHSA) National Survey on Drug Use and Health (NSDUH), approximately 23.2 million Americans needed services for an alcohol or drug problem in 2005, but only 3.9 million actually received treatment. This is consistent with a 1997 CWLA study that found that child welfare agencies could provide drug abuse treatment to less than one-third of parents who needed it.<sup>12</sup> The supply of treatment services for women and children is especially inadequate.<sup>13</sup>

The significant rise in the number of children entering out-of-home care due to parental drug use over the last two decades represents one of the most serious policy challenges with the latest example being the spread in the use of methamphetamines. The overall shortening of timelines and movement to make quicker permanency decisions in out-of-home care cases required by the Adoption and Safe Families Act (ASFA) of 1997 has increased the sense of urgency and further emphasized the pressing need within the child welfare system to develop adequate capacities to address parental substance abuse issues. Good assessment, early intervention, and comprehensive treatment are key to determining when and if a child can safely stay at home or be reunited with his or her family.

#### *Family Preservation Services*

Family Preservation Services (FPS) are comprehensive, short-term, intensive services for families delivered primarily in the home and designed to prevent the unnecessary out-of-home placement of children or to promote family reunification. The services are intended to protect a child in a home where allegations of child abuse or neglect have occurred, prevent subsequent abuse or neglect, prevent placement of a child, or reduce the stay for a child in out-of-home care. Families in need of family preservation services are usually

referred by public welfare agencies. Services are provided within 24 hours of referral and the family's involvement is voluntary. These services respond to families on a 24-hour basis, including services such as family therapy, budgeting, nutrition, and parenting skills.

### **Reunification**

Reunification is the first permanency option states consider for children entering care. Yet, in many ways, it is the most challenging option to achieve. We know that of the 280,660, children exiting out-of-home care in 2004, sixty-four percent were reunited with their parents or other family members.<sup>15</sup>

Successful reunification requires skilled workers, readily available supportive and treatment resources, clear expectations and service plans, and excellent collaboration across involved agencies. Reunification also requires culturally appropriate support and treatment services for families and the critical need for after care or post-permanency services to ensure that safety and permanency are maintained following reunification.

Children's experiences in out-of-home care can significantly affect their health and well-being. Separation from parents and in some cases from siblings, frequent changes in placements and caregivers, and a sense of instability and uncertainty about the future can undermine children's physical, emotional, and developmental well-being. Children often hold strong attachments to their birthparents even when they are in out-of-home care for long period periods of time and parent-child separation can result in children experiencing escalating emotional and behavioral problems.<sup>16</sup> The negative emotional effects on children when they experience frequent changes in placements and caregivers have been well-documented. Children who enter foster care with few apparent health issues may, over time, develop physical, emotional, and behavioral problems that were not evident at the time they entered out-of-home care.<sup>17</sup>

Studies have documented that children and youth in out-of-home care experience higher rates of physical and emotional problems and that significant percentages of children in care have chronic medical conditions,<sup>18</sup> developmental delays,<sup>19</sup> and mental health problems.<sup>20</sup> One study, for example, found that approximately 60% of children in care had a chronic medical condition, and one-quarter had three or more chronic health problems. Studies further suggest that up to 60% of preschoolers in out-of-home care have developmental delays. One study found that children younger than 6 in out-of-home care had higher rates of respiratory illnesses (27%), skin problems (21%), anemia (10%), and poor vision (9%) than the general population of young children.<sup>21</sup>

In relation to mental health problems, it is estimated that between 54% and 80% of children in out-of-home care meet clinical criteria for behavioral problems or psychiatric diagnosis. In one study, researchers found that between 40% and 60% of children in out-of-home care had at least one psychiatric disorder and that this population of children used both inpatient and outpatient mental health services at a rate 15 to 20 times higher than the general pediatric population.<sup>22</sup>

Successful reunification requires access to health care for both the child and family and this includes access to mental health services. It also requires dedicated, fully training and adequately supported caseworkers who can address the range of issues and needs of that foster child.

#### **Permanency**

Research demonstrates the importance of children's being nurtured in a stable family environment, confirming the need to move those who must enter foster care into permanent living situations as quickly as possible. Recent studies suggest that, when children must leave their families, well-supported kinship placements have the potential to provide more stable and normalizing environments than unrelated family care (Webster, Barth, Needell, 2000).<sup>23</sup>

When it is not possible for a child to return to their families of origin, alternatives such as adoption or subsidized guardianship can offer long term stability. Cost analyses of child welfare services have linked kinship care and subsidized guardianship to cost savings. One study found the cost of effecting an adoption for children in foster care to range from \$6,000 to \$28,539, or an average of \$19,141, suggesting that this permanency alternative has the potential to achieve a substantial savings over long term foster care.<sup>24</sup> Findings concerning the stability of adoptions are also encouraging; overall, disruptions occur in 10% to 16% of adoptions, while rates may be higher for some placements such as those of much older youth or in families lacking prior experience in foster care or adoption. The rate of adoption dissolutions after the adoption is finalized is very low.<sup>25</sup>

Post-permanency services are critical to ensuring the option selected as a child's permanent placement is an enduring one. These services would support reunification, prevent children from reentering foster care, and maintain permanence for children who are adopted and those in guardian-ship arrangements. Subsidies should be available to all resource families, including guardian and adoptive families. An aftercare workforce should offer ongoing support to prevent dissolution,<sup>26</sup> including linking families to community-based networks of family supports developed for at-risk families. In addition to post-permanency services for adoptive and kinship families we also need to assist youth preparing to age out of the child welfare system by providing them with the resources and support networks necessary to make a successful transition into adulthood.

#### *Kinship Care*

Kinship care is a situation in which an adult family member, such as a grandparent, aunt, uncle, or other relative, provides a caring home for a child who is not able to live with his or her parents. The practice is not new, but it is growing partly because repeated studies and *CWLA Best Practice Guidelines* have revealed the value of placing children with a relative when appropriate. The financial difficulties many relatives experience potentially threaten the use and merit of this practice, however.

Kinship placements for children in the child welfare system have increased in recent years. The U.S. Children's Bureau gives three major reasons for this growth: the number of non-relative foster parents has not kept up with need, child welfare agencies view the

kinship option more positively, and courts have placed a higher value on the rights of relatives to act as foster parents.<sup>27</sup>

#### *Subsidized Guardianship*

Subsidized guardianship is another important permanency option for relatives who care for children. The number of states implementing guardianship programs reflects growing national interest in the use of guardianship as an alternative permanency option for some children in foster care, particularly for children who are placed with relatives, who cannot be safely reunified with birth parents, and who cannot, or do not, wish to be adopted.

In 2005, the U.S. Department of Health and Human Services (HHS) released findings and evaluations of the seven state waiver demonstration programs that allow federal Title IV-E Foster Care and Adoption Assistance funding to support guardianship programs. These initial findings reflect that non-relative guardianship is a viable and effective option for child welfare workers to consider. The major findings include: the availability of assisted guardianship as a permanency option may decrease the length of out-of-home placements; Combined data from two states reveals that less than 5% of the children in guardianship placements return to foster care; children in guardianship placements fare as well as those in other permanency settings on several measures of well-being, including school performance, engagement in risky behaviors, and access to community resources; and the use of guardianship placements shows statistically significant signs of positive outcomes, with more exits from foster care resulting in reunification or adoption.<sup>28</sup>

#### *Adoption*

Adoption has long been a vital service for children who need families, bringing children whose birth parents cannot or will not be able to provide for them together with nurturing adults who seek to build or add to their families. Although only 2 to 3% of the U.S. population is adopted, adoption touches the lives of many people. In 1938, the Child Welfare League of America published the first professional standards to guide adoption agencies. Over the past decades, families choosing to adopt have become increasingly diverse. A growing number of foster families, families of color, older individuals and families with children, two-parent working families, single parents (both male and female), gay and lesbian couples, families with modest incomes, individuals with physical disabilities, and families of all education levels, religious persuasions, and from all parts of the country now adopt. These individuals and families have one important thing in common: they are willing and able to make a lifelong commitment to protect and nurture a child not born to them by providing a safe and loving family for that child.

Historically, most of the federal adoption support has been targeted toward promoting adoptions. As adoptive families increase in number and as time passes, however, there is a corresponding, increased need to address some of the challenges that may surface in later years for these families through post-adoption services. The most common post-adoption services are subsidies. The other services include support groups, crisis intervention, child and family advocacy, adoption searches, case management, family therapy, mental health treatment, respite care, and targeted case management. Some adoption agencies also provide chemical abuse treatment, day treatment, and intensive in-home supervision, indicating a strong commitment to making adoption placements work.

Funding for these important services has been drawn from a mix of federal, state, local and private funds. In a 2006 survey of CWLA member agencies involved with adoption, over a third of respondents reported using contract money through the state or county child welfare agency to support these services. Other government funding includes Temporary Assistance for Needy Families (TANF), adoption incentive grants, adoption opportunities grants, Medicaid, and state mental health funding. For the rest of the agencies, funding appears to be challenging, with many using funding sources other than public agency contracts or funds to pay for their post-adoption services. A few agencies receive small grants from foundations to pay for programs. Some agencies charge families for post-adoption services, using a sliding scale based on family income. Over two-thirds of agencies surveyed support these services independently because they either have no outside funding, or the funding does not cover the total cost of services.<sup>29</sup>

#### *Youth Leaving Foster Care*

Every year, it is estimated that 20,000-25,000<sup>30</sup> young people exit the foster care system. Young people transitioning out of foster care are significantly impacted by the instability that accompanies long periods of out of home placement. Youth in the foster care system are often confronted with emotional, behavioral, developmental, and health challenges. The life events of these young people place them at an increased risk for experiencing adversity. In the midst of elevated rates of homelessness, poor educational outcomes, low wages, unemployment, long-term dependency on public assistance, incarceration and health issues, young people "aging out" of the foster care system are also experiencing pregnancies and early parenthood. Confronting and overcoming these challenges without support networks or familial connections make it challenging for these young people to successfully transition into adulthood.

#### *Lack of Affordable Housing & Homelessness*

Young people aging out of the foster care system need economic security and affordable, safe and stable housing. The 2000 Census reported that nearly 4 million people between the ages of 25 and 34 live with their parents due to economic realities – jobs are scarce and housing is expensive. This phenomenon has been identified as "adulthood", an extended period of adolescence during which it has become common and expected for young people to live with their parents. Unfortunately, foster youth do not always have the option of turning to their families for financial support. Former foster youth are often prematurely confronted with the harsh reality of the gap between the wages they earn and the cost of housing. As a result, young people aging out of the foster care system are becoming homeless at disconcerting rates.

Former foster youth are experiencing homelessness anywhere from 12% to 36%.<sup>31</sup> It has been reported that as many as three in ten of the nation's homeless adults report foster care history. Homeless parents who report a history of foster care are almost twice as likely to have their own children placed in out-of-home care as homeless people who never experienced foster care. Youth transitioning out of the foster care system are facing critical housing needs upon discharge. This is a particularly critical issue for young people with mental health needs. These youth frequently face service gaps while waiting

to transition from the foster care system to the adult services system, sometimes resulting in periods of homelessness.

In order to successfully transition into adulthood, youth need to be appropriately prepared to exit the foster care system. It is imperative that youth work in partnership with their caseworker to create an effective discharge plan. An effective discharge plan focuses on the development of independent living skills, including securing housing, developing a financial plan, obtaining and maintaining employment, continuing education, and creating social networks and connections. In an effort to close the gaps that allow so many youth to fall through the cracks, it is necessary to have cross-system dialogue, collaboration and coordination. These exchanges will allow systems to educate each other in order to integrate programs and improve services for young people aging out of the foster care system. Creating connections, developing effective discharge plans and integrating services will prevent the intersection of foster care with homelessness, health issues, incarceration, unemployment, pregnancy and early parenthood. Instead, these partnerships along with a solid discharge plan, will allow these resilient youth to become thriving, productive, and contributing members of society.

#### *Education*

Children and youth in foster care encounter numerous barriers to school success. In addition to the abuse and neglect initially bringing them to the attention of the child welfare system they must deal with the emotional consequences of being removed from their homes and communities, separation from siblings, being bounced from home to home, and having the child welfare agency and court system involved in all aspects of their lives.

Schools should represent stability for foster children during times of transition and instability, but due to poor coordination and communication between schools and child welfare agencies, this often does not always happen. Federal law falls short in assuring school stability and access to supportive services for children in care. Too often there is as much movement among schools as there is in living arrangements. When children change schools, education records frequently do not follow in a timely fashion. Indeed, youth in foster care in some states have been reported to move through an average of nine different schools during their tenure in foster care. These children and youth are commonly out of school for weeks or months and fall behind academically, cognitively, and socially. They often need to repeat courses and are unable to access the support services that could improve education outcomes. Schools need a better understanding of the unique situations and experiences of children in foster care and child welfare agencies need to focus more on the educational needs and outcomes of the children and youth they are serving. The reauthorization of No Child Left Behind (NCLB) provides an opportunity to do both and to better address the needs of children and youth in foster care.

## **HEALTH CARE AND WORKFORCE**

### **Health Care Including Mental Health**

Child welfare agencies are responsible for meeting the health and mental health needs of all children in state custody, and virtually all children in foster care are eligible for and obtain health care services through Medicaid. Other federal programs that support the

child welfare system do not provide coverage for acute or long-term health services. The need for comprehensive Medicaid coverage for this population of vulnerable children is particularly significant, as research has extensively documented that children in foster care have more health problems, especially mental health problems, than the general population of children from low-income families.

Children in foster care are at higher risk for having physical and mental health needs, stemming either from the maltreatment that led to their placement, or from preexisting health conditions and long-term service needs. Exposure to domestic violence, abuse, substance abuse, neglect, homelessness, separation from family, and other traumas are just some of the many pressures that children in the child welfare system face. Previous studies have found that up to 80% of youth involved with child welfare agencies suffer from emotional or behavioral disorders, developmental delays, or other issues requiring mental health intervention.<sup>32</sup> This is striking when compared to the general population of youth in which a mental health diagnosis is present only 20% of the time. One major study found that half of all adults who had been placed in foster care as children experience serious mental health problems into adulthood, and one-quarter suffer from post-traumatic stress disorder.

In addition to relying on Medicaid for a broad range of acute and long-term health services, children in foster care differ from other children because of their greater need for mental health and disability-related services. Beyond funding the direct provision of basic physical health care services, Medicaid currently allows many states to provide critical rehabilitative, therapeutic, psychiatric, and targeted case management (TCM) services to children in foster care. Such funding is essential for the child welfare system to ensure children in foster care receive the necessary physical and mental health supports while in protective custody.

TCM is an optional Medicaid benefit that helps a specified group of Medicaid beneficiaries within a state gain and coordinate necessary medical services. Use of TCM allows states to target a select population (for example, children in foster care, people with severe mental illness, or people with HIV/AIDS) to receive in-depth case management services. TCM for children in foster care facilitates the provision of essential health and mental health services, while Title IV-E Foster Care and Adoption Assistance funding cannot be used for such health care purposes. TCM increases the likelihood that children in foster care will receive the health care services—both physical and mental and short-term and long-term—they need and are entitled to.<sup>33</sup>

Medicaid also provides the optional Rehabilitative Service benefit for children in the child welfare system. These services aim to reduce physical or mental disabilities and help recipients reach their optimal functioning level. Some of these key services include therapeutic or treatment foster care, behavioral management services, day treatment services, and family functioning interventions. Use of the rehabilitative services Medicaid option often plays a critical role in allowing states to provide essential mental health services in the least restrictive setting to children in foster care.

Among the 2000 and 2001 CFSR reviews, only one state demonstrated strength under the well-being indicator for meeting the mental health needs of children in foster care.<sup>34</sup> In 2002, common concerns in the other states included a scarcity of mental health services, the questionable quality of mental health services, and the lack of mental health assessments of children, even when there was adequate reason to conduct such an assessment. Most states have included actions in their Program Improvement Plans responding to the CFSR reviews that aim to better address the mental health needs of children and families in the child welfare system. An optimal array of mental health services supporting children and families who enter the child welfare system would include prevention and early intervention services, home-based services, and out-of-home services. Out-of-home mental health services for children in the foster care system must include accessible options such as outpatient mental health services, day treatment, therapeutic/treatment foster care, or, if ultimately necessary, inpatient child and adolescent mental health and/or substance abuse treatment. Children and adolescents in foster care who need mental health treatment should receive services in the least restrictive environment possible.

More federal resources must be dedicated to research and services for children in out-of-home care so that they can receive the mental health services they need and deserve to live healthy, productive lives. A complex nexus of state Medicaid, child welfare, and behavioral health care systems currently works with extremely limited resources to provide the mental health services needed by so many children in foster care. Congress must ensure the already limited funding streams for critical mental health services to children in foster care, including the Medicaid options of Targeted Case Management and Rehabilitative Services, are protected and aggressive efforts are made to improve the national mental health system for children and adults. It is crucial that federal policymakers recognize the vital role comprehensive mental health care plays in enhancing a child's chance for health development, reducing stress for caregivers, stabilizing foster care placements, and providing the services families need to care for their children.

#### **Child Welfare Workforce**

Successful outcomes for children and families in child welfare depend heavily on the quality of services received, and in turn, on the ability of the workforce delivering them. Yet, child welfare agencies across the country are facing a workforce crisis on many fronts. Attracting, training, and retaining qualified staff at all levels has become increasingly challenging. Staff shortages and high turnover rates have grown with the increasingly rigorous demands of the work, low to modest compensation, and competition with other more attractive options in the current booming job market. Child welfare workers must be prepared to handle caseloads typically well beyond recommended national guidelines. Every day they work with children and families with complex problems and often in situations that may jeopardize their safety.

A report from the U.S. Government Accountability Office<sup>35</sup> found that states failed to meet some of the outcome measures in the Child and Family Services, due, at least in part, to workforce deficiencies. Areas where measures were not met due to workforce issues included: timely investigation of abuse complaints, efforts to reduce the risk of harm to the child, the ability to maintain stable foster care placements, establishing

permanency goals for the child in a timely manner, involvement of children and families in case planning, and adequately monitoring child safety and well-being.

The need for training for both new staff and on-going training for current staff is a critical part of the workforce issue. States must be able to ensure worker competencies through the provision of comprehensive, rigorous, competency based training programs. We believe that an important part of this strategy is to allow states that contract their services to private agencies to be able to use federal IV-E training dollars to train this important part of the workforce.

#### **RECOMMENDATIONS**

CWLA has joined a number of national groups to propose a comprehensive approach to building and funding a child welfare reform initiative. Working with groups as diverse as The American Public Human Services Association (APHSA), the American Federation of State, County and Municipal Employees (AFSME); Catholic Charities USA; the Center for Law and Social Policy; the Children's Defense Fund; the National Child Abuse Coalition; and Voices for America's Children, the initiative covers three primary areas of reform. These reforms include guaranteeing services, supports, and safe homes for every child who is at-risk of being or has been abused or neglected. It strengthens the federal-state child welfare partnership by amending the federal Title IV-E statute to promote program effectiveness and to enhance accountability without converting any of the Title IV-E to a block grant. CWLA looks forward to working with our colleagues and with the subcommittee in advancing this proposal to enact a comprehensive child welfare reform.

Short of a comprehensive reform, several legislative proposals now in Congress could begin to address some of the shortfalls in the current system. In both houses of Congress bills have been introduced to extend Title IV-E funding to kinship placements. Legislation in the Senate, S. 661, and in the House, H.R. 2188, offer a bipartisan way forward to enhance the ability to use kinship placements and to extend permanency to many of the children now in the system. Similarly, there is bipartisan legislation in the Senate that would provide targeted funding to home visiting programs. S. 667 has bipartisan sponsorship and would help strengthen this prevention and intervention strategy. HR 1376 has been introduced in the House and would extend Medicaid coverage to youth leaving the foster care system due to their age up to age twenty-one. Continued access to health care is one component that is needed if these former foster youth are to have a successful transition to adulthood. Congress will also have an opportunity to address some of the education barriers that now exist for children in foster care when it takes up the reauthorization of the No Child Left Behind (NCLB) law.

Appropriators also need to provide greater support to intervention and prevention services by fully funding the Promoting Safe and Stable Families program and the Child Abuse Prevention and Treatment Act (CAPTA) as well as preserving the funding for the Social Services Block Grant (SSBG). CWLA urges you to reject the proposed cuts offered by the White House. We also urge Congress to take greater oversight in regard to the Medicaid program and recent administrative actions that will restrict states in their ability to use Targeted Case Management (TCM) and the use of rehabilitative services for children in foster care. If we are serious about giving these children safe and permanent

families then this is not the time to be restricting access to needed services through the Medicaid program.

In the coming weeks as this subcommittee takes a more detailed look at the child welfare system we urge you to examine the need for reforming the restrictive eligibility under Title IV-E, examine proposals to extend that funding to age twenty-one, to tribal nations and to expand access to Title IV-E training funds to private agencies.

**CONCLUSION**

CWLA appreciates the opportunity to offer our comments to the Subcommittee in regard child welfare reforms. As this Subcommittee moves forward we look forward to a continued dialogue with the members and all Members of Congress. We hope this hearing serves as a building block for future efforts that will create a comprehensive reform that results in reduced numbers of children being abused and neglected and safer and permanent families for those children who do come into contact with the child welfare system.



**FOR THE RECORD**

Testimony of

**Joe Kroll**

**Executive Director**

**North American Council on Adoptable Children**

before the

**U.S. House of Representatives Committee on Ways and Means  
Subcommittee on Income Security and Family Support**

on

**Challenges Facing the Child Welfare System**

May 15, 2007

**North American Council on Adoptable Children  
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As chairman McDermott stated in an announcement of today's hearing, "There are a number of obstacles that undermine the ability of the child welfare system to ensure safe, nurturing and permanent homes for children in the foster care system. Overcoming these obstacles is critical to achieving positive outcomes for our most vulnerable children."

We at the North American Council on Adoptable Children (NACAC) believe that, of the many barriers that keep children from achieving permanence, the following are some of the most significant. First and foremost, the federal child welfare financing system relies too heavily on foster care rather than investing in preserving and rebuilding families or better supporting new permanent families for children who cannot return safely home. Below we detail four ways to invest in families to achieve better outcomes for children: (1) implement federally supported guardianship; (2) provide support to birth families; (3) increase access to adoption assistance; and (4) fund post-permanency support.

One of the more significant barriers facing children and youth of color in foster care, however, has little to do with financing. Currently children of color, primarily African American children, are over-represented in care and stay in care too long. Although states are required to recruit permanent families from communities that reflect the foster children in their care, we have seen little action in this area. Reform is needed to improve recruitment and retention of families of color who can provide permanency for these children.

### **Implement Federally Supported Subsidized Guardianship**

About one-quarter of foster children are cared for by grandparents or other relatives.<sup>1</sup> Right now, almost 20,000 of these children cannot return to their birth families and have been with their relatives for at least a year.<sup>2</sup> These stable, loving kin families are a perfect permanent resource for many foster children, but the children remain stuck in foster care simply because adoption is not the right choice for their family.

For families like these, guardianship is the right option. Iowa resident Helen has been caring for her 10-year-old grandson Cordell for years and is committed to him. Adoption, however, is not the right choice for Cordell. Helen explains, "He has enough problems without his aunts and his mother becoming his sisters. That's like a bad rap song." Helen has adopted four foster children, but knows that in Cordell's case guardianship would provide the permanence he needs without rearranging family boundaries. At the same time, Helen needs assistance to help meet Cordell's significant needs. Iowa's waiver allows only children older than Cordell to receive government-supported guardianship.

Illinois resident Rob knows firsthand the value of guardianship. Placed in foster care due to his mother's mental health, he and his two sisters eventually ended up in a subsidized guardianship placement with his aunt. One of the first children served through Illinois'

<sup>1</sup> Generations United. (2006). *All children deserve a permanent home: Subsidized guardianships as a common sense solution for children in long-term relative foster care*. Washington, DC: Author.

<sup>2</sup> Children and Family Research Center. (2004). *Family ties: Supporting permanence for children in safe and stable foster care with relatives and other caregivers*. Urbana-Champaign, IL: School of Social Work, University of Illinois at Urban-Champaign.

guardianship waiver, Rob found safety, stability, and love with his aunt while maintaining ties to the mother he loves. For Rob, guardianship was a lifesaver that should be available to more children and youth. He explains, "I was able to find my miracle through subsidized guardianship, but other foster children are not so lucky. The federal government should provide funding to states for children who leave foster care to live permanently with grandparents, aunts, uncles, or other guardians. In many cases, if relatives choose to become legal guardians rather than foster parents, they lose federal foster care assistance, which pays for things like food and clothing. That just isn't right."

For children like Cordell who remain in foster care, life is unnecessarily complicated—they cannot sleep over a friend's house without social worker approval. They cannot receive routine medical care without the government getting involved. Children like Cordell and Rob need the permanency option of federally supported guardianship.

**Recommendation:** Federal waivers have proven the efficacy of subsidized guardianship. In the nine years since Illinois implemented its guardianship program, 9,596 children have left foster care to legal, supported guardianships.<sup>3</sup> While waivers allow states to experiment with needed innovations, they are temporary. We now need subsidized guardianship to be an approved permanency option, included in the Title IV-E program like adoption assistance. Children in stable foster placements with relatives and other committed caregivers would benefit from greater federal support for guardianship, allowing children to leave care, eliminate costly caseworker visits, and reduce unnecessary court oversight. A federally supported guardianship program could help almost 20,000 children leave foster care to a permanent family *right now*. Thousands more could be served each year in the future.

### Provide Support to Birth Families

The *Green Book* states: "It is generally agreed that it is in the best interests of children to live with their families. To this end, experts emphasize both the value of preventive and rehabilitative services and the need to limit the duration of foster care placements."<sup>4</sup> Federal funding does not reflect this priority—90 percent of federal funding can be used by states only after Title IV-E-eligible children have entered foster care or been adopted.<sup>5</sup>

Since so much federal funding is for children who have entered care, states do not have sufficient resources to invest in birth family support and reunification. In recent years, we have seen the percentage of foster children who reunite with their birth families go

<sup>3</sup> Personal communication with Leslie Cohen, (March 2007), Children and Family Research Center.

<sup>4</sup> U.S. House of Representatives, Committee on Ways and Means. (2004). *2004 green book: Section 11, child protection, foster care, and adoption assistance*. [Online]. Available: [http://www.webgate.access.gpo.gov/cgi-bin/main.dll?WALSdbName=108\\_green\\_book+2004+Green+Book+%28108th+Congress%29&WALSQueryRule=%28%24WALSQueryString%29+AND+%28reporttype%3D%24sect+OR+reptype%3D%24sect1+OR+reptype%3D%24sect2%29&WALSQueryString=duration+of+foster+care+placements&WALStemplate=mainlib\\_results.html&Submit=&Submit&WrapperTemplate=wsprints\\_wrapper.html&WALSmaxHits=40](http://www.webgate.access.gpo.gov/cgi-bin/main.dll?WALSdbName=108_green_book+2004+Green+Book+%28108th+Congress%29&WALSQueryRule=%28%24WALSQueryString%29+AND+%28reporttype%3D%24sect+OR+reptype%3D%24sect1+OR+reptype%3D%24sect2%29&WALSQueryString=duration+of+foster+care+placements&WALStemplate=mainlib_results.html&Submit=&Submit&WrapperTemplate=wsprints_wrapper.html&WALSmaxHits=40). [Retrieved May 7, 2006.]

<sup>5</sup> In FY 2006 the appropriation for Title IV-E foster care and adoption assistance programs is \$6.48 billion while the funding for Title IV-B Parts 1 and 2 (Safe and Stable Families Program) is only \$721.7 million.

down—from 62 percent in 1998 to 54 percent in 2005.<sup>6</sup>

Children can reunify with their birth families when parents get needed support. Tennessee resident Melissa was once addicted to drugs and at risk of losing her son Marley. With perseverance, she found an innovative drug treatment program that keeps parents and children together, rather than placing children away from their families in foster care. Melissa explains how hard it would have been for Marley to enter care rather than staying with her during treatment: “The pain of his mother being sick and gone ... I know that would have been devastating. He would have gone through things he shouldn’t have to. None of it was his fault. To be able to heal with him while I was healing—that was just a beautiful thing.” Melissa is now a proud soccer and Cub Scout mom who loves her job as a private duty certified nurse technician.

Kelly of Baltimore is the mother of three young children who are thriving today. Life was not so good five years ago: Kelly was addicted to drugs and her children entered foster care. After struggling to kick her habit, Kelly found a program that helped her put her life back together. Kelly explains, “I had everybody pulling for me as far as my social worker and my counselors at the program trying to help me get immediate Section 8 housing.” She continues, “They also funded my counseling, and they got me parenting classes.” Life in recovery is so good and so wonderful,” Kelly says. “Honestly, I don’t have any desire to go back to that way of life. I’m grateful for my life today.

Kelly and Melissa, sadly, are not typical in that they were able to receive the comprehensive services they need. As noted in the advisory announcing this hearing, states have expressed dissatisfaction with the level of substance abuse services for parents. A recent survey of child welfare administrators found that substance abuse and poverty are the most critical problems facing families being investigated for child maltreatment.<sup>7</sup> In some areas, substance abuse is an issue for one-third to two-thirds of the families involved in child welfare.<sup>8</sup> Unfortunately, only 10 percent of child welfare agencies report that they can find drug treatment programs for clients who need it within 30 days.<sup>9</sup> Almost no drug-addicted parents can access drug treatment programs with a mother-child residential component, and few are able to participate in comprehensive programs that address issues of parenting and housing along with substance abuse. For families dealing with poverty and housing issues, support is also hard to come by. As the National Center for Child Protection Reform notes, “Three separate studies since 1996 have found that 30 percent of America’s foster children could be safely in their own homes right now, if their birth parents had safe, affordable housing.”<sup>10</sup>

<sup>6</sup> U.S. Department of Health and Human Services. (2006). AFCARS report #10 (Preliminary FY 2005 estimates). [Online]. Available: <http://www.acf.hhs.gov/programs/cb/statereports/afcars10/report13.htm> [Retrieved February, 2007].

<sup>7</sup> National Center on Child Abuse Prevention Research. (2001). *Current trends in child abuse prevention, reporting, and fatalities: The 1999 fifty state survey*. Chicago: Prevent Child Abuse America.

<sup>8</sup> U.S. Department of Health and Human Services. (1999). *Blending perspectives and building common ground: A report to congress on substance abuse and child protection*. Washington, DC: U.S. Government Printing Office.

<sup>9</sup> U.S. Department of Health and Human Services. (1999). (See complete citation above.)

<sup>10</sup> National Coalition for Child Protection Reform. (2004). *Who is in “the system” and why* [Online]. Available: <http://www.nccpr.org/newsroom/5.html> [May 7, 2006].

**Recommendations:** Currently, for every dollar that the federal government spends on family preservation and post-permanency support, nine dollars are spent on IV-E children who are in foster care or who have been adopted from care. The federal government must significantly increase its investment in Title IV-B Parts 1 and 2, and provide states with increased flexibility in how they spend federal child welfare monies.

In addition, if states successfully reduce the use of foster care, they should be able to reinvest federal dollars saved into preventive and post-permanency services. Currently, when states reduce the number of IV-E eligible children in foster care, the federal government reduces its payment to the state. We recommend that the federal government provide states with an amount equal to the money saved in Title IV-E maintenance payments, training, and administration. This would provide an incentive to keep or move children out of care, while also beginning to address the vast imbalance in federal funding.

Investing in at-risk families has been shown to work. Using a IV-E waiver, Delaware demonstrated that investing in substance abuse treatment had positive outcomes for children: the project's foster children spent 14 percent less time in foster care than similar children who did not participate in the waiver, and total foster care costs were reduced.<sup>11</sup> Certain counties in North Carolina used a federal child welfare waiver to cut down on out-of-home placements by investing in court mediation, post-adoption services, intensive family preservation services, and other interventions.<sup>12</sup>

### **Protect and Expand Adoption Assistance**

Between 1998 and 2004, more than 330,000 foster children were adopted into loving, caring families. But adoption is not a giant eraser. Children who have been abused or neglected—and bounced from foster home to foster home—do not emerge unscathed. The government has a moral obligation to make a long-term commitment to adoptive and guardianship families who take into their homes foster children who have languished in care for far too long, many of whom are older and have multiple special needs.

Adoption assistance (or subsidy) is one critical support for families who adopt children with special needs from the foster care system. Subsidies help strengthen these new families and enable many foster parents to adopt children already in their care by ensuring that they do not lose support as they transition to adoption.

Michigan resident Vernard adopted his son Alex when he was three. "Alex had been in 10 placements before I got him," says Vernard. Because of Alex's diagnosis of reactive attachment disorder and other special needs, Vernard recalls, "I made absolutely sure I received adoption medical subsidy prior to the adoption, because I knew accepting even a

<sup>11</sup> U.S. General Accounting Office. (2002). *Recent legislation helps states focus on finding permanent homes for children but long-standing barriers remain*. Report to Congressional Requestors. [Online]. Available; <http://www.gao.gov/new.items/02585.pdf> [Retrieved May 7, 2006].

<sup>12</sup> Usher, C., Wildfire, J., Brown, E., Duncan, D., Meier, A., Salmon, M., Palster, J. & Gogan, H. (2002). *Evaluation of the Title IV-E waiver demonstration in North Carolina*. Chapel Hill, NC: Jordan Institute for Families, University of North Carolina.

minimum amount of subsidy would be in Alex's best interest. I knew that if Alex required residential treatment or out-of-home placement—due to his multiple placements, and the neglect and physical and sexual abuse he experienced—there was no way I could afford \$300 to \$400 a day or even trained respite support.” Alex receives a \$300 monthly subsidy, but during their first four years together, Vernard spent more than \$850 per month to meet Alex's needs, including four different therapies to help Alex.

Currently, the federal government shares in a portion of adoption assistance costs only for children whose birth family income is below the 1996 Aid to Families with Dependent Children income standards. In contrast, states are obligated to provide protection to every abused or neglected child, regardless of family income. Unfortunately, a funding system that ties adoption assistance to outdated income guidelines has resulted in a system in which far fewer children are eligible for Title IV-E federal support. In 1998, 53 percent of foster children were eligible for federal support, but by 2005, the percentage had dropped to 46 percent—or 35,000 fewer Title IV-E eligible children. This number is projected to decline by another 5,000 per year.<sup>13</sup> The loss of IV-E eligibility often translates into the eventual loss of IV-E adoption assistance eligibility.

As a result of this declining federal support, states and localities must share a greater burden for foster care and adoption. In some states, this has severely limited the amount of funding that can go to prevention or adoption support. Recent state legislation demonstrates the need for rapid federal action on this issue. In 2005, as allowed by federal regulations, Missouri enacted legislation that would have instituted a means test for state-funded adoption assistance agreements and would have ended more than 1,000 existing adoption assistance agreements. Although a federal district court found the law unconstitutional on May 1, other states may follow Missouri's example in an attempt to save funds. Such short-sighted policies will relegate more children to foster care, rather than helping them leave care to a permanent family.

A recent study by Barth et al. suggests that such adoption assistance cuts are not cost-effective: “[C]uts in subsidy amounts could reduce the likelihood of adoption and ultimately increase costs for foster care.”<sup>14</sup> In contrast, a new study suggests that a small increase in adoption assistance would result in increased adoptions, again saving money in the long run by reducing higher foster care costs.<sup>15</sup>

In the long run, adoption—even well-supported adoption—saves money. The Barth et al. study demonstrates that the 50,000 children adopted each year save the government from \$1 to \$6 billion, when compared to maintaining those children in long-term foster care. Savings result from reduced administrative costs, medical courts, court expenses, compared to the costs of seeking adoptive families and providing adoption assistance.<sup>16</sup>

**Recommendations:** Since 1988 NACAC has advocated for an elimination of the link

<sup>13</sup> Kids Are Waiting. (2007). *Fix the Foster Care Lookback*.

<sup>14</sup> Barth, R., Lee, C., Wildfree, J., & Gao, S. (2006). A comparison of the governmental costs of long-term foster care and adoption. *Social Service Review*, 80(1).

<sup>15</sup> Hanson, M., & Hansen, B. (2006). The economics of adoption of children from foster care. *Child Welfare*, 85(3)

<sup>16</sup> Barth et al. (2006). (See complete citation above.)

between birth parent's income and eligibility for Title IV-E adoption assistance. It makes no sense to tie a child's eligibility to the financial status of parents whose parental rights have been terminated. State *and federal* assistance should be required to ensure support after adoption for every abused and neglected child—not just every child born into a poor family. As proposed by Senator Jay Rockefeller, the Adoption Equality Act of 2007 would extend Title IV-E adoption assistance to every child with special needs adopted from foster care. Such legislation would also save states money currently spent on costly income-eligibility determinations. The savings could then be invested in supporting families after permanency or preventing foster care placements in the first place.

Adoption assistance is designed to help an adoptive family meet a child's needs without creating an undue financial burden on the family. Therefore, a program in which the federal government provides support to all children with special needs adopted from foster care must maintain the federal prohibition against using the adoptive family's income to determine eligibility.

### **Fund More Intensive Post-Permanency Support**

While adoption assistance is a necessary support for children adopted from foster care, it is often not enough. As Babb and Laws detail, children adopted from foster care face a variety of special needs: mental illness, fetal alcohol spectrum disorder, attention deficit hyperactivity disorder, emotional disabilities, attachment disorder, as well as physical disabilities.<sup>17</sup> Groze and Gruenewald agree that “[f]amilies face enormous challenges and strains in adopting a special-needs child.”<sup>18</sup>

While adoptions doubled from 1997 to 2004, post-adoptive services failed to keep pace. More people are adopting more children, and the children are often older, have been in care longer, and face daunting special needs. The Center for Advanced Studies in Child Welfare notes that older children and children with disabilities are at highest risk for adoption disruption.<sup>19</sup> Few states or counties have the comprehensive services necessary to meet parents' needs as they raise children who have been abused and neglected and have resulting physical and emotional special needs. We at NACAC have met far too many families who are deeply committed to their adopted children, but are unable—or barely able—to meet their children's mental health needs.

Brenda and Bob from Maryland adopted two girls several years ago. The sisters have serious mental health problems that the family struggles to meet. The oldest daughter is in residential treatment and may be there indefinitely. The financial and emotion strain is great. Brenda notes, “If you haven't lived with children who have emotional issues, you can't imagine it. They bring you into their storm. You cannot stay out of it. Fortunately my husband and I are very strong people.” Brenda adds, “We are committed to our

<sup>17</sup> Babb, A., & Laws, R. (1997). *Adopting and advocating for the special needs child: A guide for parents and professionals*. Westport, CT: Bergin & Garvey.

<sup>18</sup> Groze, V., & Gruenewald, A. (1991). Partners: A model program for special-needs adoptive families in stress. *Child Welfare*, 70(5), 581-589.

<sup>19</sup> Center for Advanced Studies in Child Welfare. (1998). *CASCW practice notes # 4: Post-adoption services*. [Online]. Available: [http://www.cascw.org/img/assets/11860PracticeNotes\\_4.pdf](http://www.cascw.org/img/assets/11860PracticeNotes_4.pdf) [Retrieved: May 7, 2006].

children. We're holding on, but sometimes we don't know what we're holding on to."

Corvette of New York adopted nine-year-old Malik from foster care. "He hallucinates and sees spiders even though there are no spiders," says Corvette. When Malik starts to see spiders, he panics and loses control. Not long ago, Malik needed to be admitted to hospital in-patient treatment for more than two weeks. Corvette has a deep, abiding love for Malik, but knows love isn't enough to heal his past hurts and meet his special needs. She relies on Medicaid, monthly adoption assistance, and other services to provide medication, therapy, a medical school setting for Malik, training for her, and more. These services enable her to keep Malik at home, which is considerably less expensive than the residential treatment he might otherwise need.

A Minnesota family has seen first-hand the devastation resulting from a lack of post-adoption services. Several years ago, Alice's adopted daughter Jane (not her real name) began to have serious behavioral problems due to attachment disorder, fetal alcohol spectrum disorder, and an appalling history of abuse and neglect. Alice tried therapy covered by her medical assistance, but Jane needed more intensive residential treatment. Alice couldn't afford the care and the county would not pay for it, so Jane's behavior got more out of control and even violent. Eventually, Alice had to seek emergency shelter care for her daughter. The county filed child abuse charges against Alice because she wouldn't take her daughter home (because she knew she couldn't keep her safe there). Alice was forced to surrender her daughter to foster care where Jane finally received residential treatment. In the meantime, though, at the shelter Jane was sexually exploited, exposed to illegal drugs, and traumatized by instability. Rather than providing help when it was first needed, the system put a vulnerable teenager and her mother through the ringer.

Post-adoption and post-permanency supports cut down on the risk of disruption and dissolution. Most adoptions succeed, but as many as 10 to 25 percent of public agency adoptions of older children disrupt before finalization, and a smaller percentage dissolve after adoption finalization.<sup>10</sup>

**Recommendations:** Funding of Title IV-B must be increased, and the new funding should cover post-permanency support. Currently, good post-adoption programs are providing basic information, support, training, and other services to families in many areas. It is not enough. More resources are needed for adoption-competent mental health services and case management programs that will ensure that children with difficult histories and current mental health and behavior problems do not needlessly return to foster care or devastate their new families. If we want adoption and guardianship to be truly permanent, we must find the resources to provide in-depth, sometimes intensive support to these permanent families. It is far more economical—let alone humane—to provide these services now to ensure that children don't return to foster care.

<sup>10</sup> National Adoption Information Clearinghouse. (2006). *Postadoption services: A bulletin for professionals*. [Online]. Available: <http://naic.acf.hhs.gov> [Retrieved May 2006].

### **Increasing Adoptions for Children of Color**

The hearing notice highlighted the over-representation of children of color in foster care. Recent AFCARS data show that 32 percent of foster children are African American, as are 36 percent of waiting children. About 18 percent of foster children and 15 percent of waiting children are Latino.<sup>21</sup> A significant obstacle to ensuring safety and permanence for these children is the trouble that families of color face when seeking to adopt from the foster care system.

With the passage of the Multiethnic Placement Act and the Interethnic Provisions (MEPA/IEP) in the mid-1990s, the federal government made an attempt to help more children of color leave foster care to permanent families. More than a decade later, however, African American children are over-represented in foster care, stay in care longer, and take longer to be adopted.<sup>22</sup>

From our perspective as a national advocacy organization, we have seen that the children most affected by MEPA policies and transracial adoption are younger children of color (five and under)<sup>23</sup> who are adopted by their white foster parents. MEPA enforcement focuses exclusively on penalizing states for delaying or denying placements based on race, while MEPA's provision that requires states to recruit families from communities that reflect the children in care have been, at best, under implemented<sup>24</sup> and never enforced.

The National Adoption Attitudes Survey found that African American and Latino people are more likely to seriously consider adopting children with special needs than white Americans.<sup>25</sup> Unfortunately, minority prospective adopters run into barriers that keep them from providing children with an adoptive family. The barriers include agencies' culturally insensitive practices, prospective adopters' fear of agencies that have been seen as unnecessarily removing children from their communities, and workers' MEPA-related confusion about which placement practices are now legal. Some workers even believe that MEPA prohibits agencies from placing black children with black families.

Research has shown that partnering with minority-specialty agencies is an effective way to recruit and retain families for waiting children of color. In one study, 70 percent of families who successfully adopted children through private African American agencies had first unsuccessfully tried to adopt through mostly public agencies. As the authors noted, "The overwhelming majority of these families have adjusted quite well to their status as adoptive families.... That they had been 'screened out' during the adoption process in primarily public adoption agencies or had dropped out of the process...is

<sup>21</sup> Administration for Children and Families, *AFCARS Report*. (September 2006). [Online]. Available: [http://www.acf.hhs.gov/programs/ab/status\\_research/afcars/summaryreport13.htm](http://www.acf.hhs.gov/programs/ab/status_research/afcars/summaryreport13.htm) [Retrieved May 11, 2007].

<sup>22</sup> McRoy, R., Mica, M., Freundlich, M. & Kroff, J. (2007). Making MEPA-IEP work: Tools for professionals, *Child Welfare*, 86(2).

<sup>23</sup> North American Council on Adoptable Children. (2007). *AdoptaIt!*.

<sup>24</sup> Race Matters Consortium. *MEPA/IEP Overview*.

<sup>25</sup> Dave Thomas Foundation for Adoption. (2002). *National Adoption Attitudes Survey*.

discouraging, given the resource they offer for the numerous African American children...awaiting adoption."<sup>26</sup>

African American and Latino families can and do adopt foster children with special needs. States need added incentives, resources, and encouragement to reach out to these prospective families and ensure that more children, especially older children and youth, find the permanent families they need.

**Recommendation:** We strongly believe that MEPA/IEP should be replaced with legislation that includes the following provisions:

- A child's best interests should always be paramount in placement decisions.
- In any foster care or pre-adoptive placement, preference shall be given to placement with a child's relative or fictive kin when those families can safely meet the child's needs.
- States, counties, and other agencies with responsibility for children in foster care must recruit, retain, and seriously consider prospective foster and adoptive families from communities that reflect the racial, ethnic, cultural, and linguistic background of children in their foster care system.
- Placing agencies must assess a prospective foster or adoptive family's ability to meet a child's needs—including racial, ethnic, cultural, and linguistic needs—when making a foster or adoptive placement and, in placement decisions, must consider the child's cultural, racial, ethnic, and linguistic needs as well as prospective parents' capacity to address other needs the child may have.
- When making transracial or transcultural foster or adoption placements, state, county, and other agencies with responsibility for children in foster care must provide training and other supportive services to ensure that foster and adoptive parents can meet their children's racial, ethnic, cultural, and linguistic needs.
- A foster or adoptive placement should not be delayed or denied due solely to the race, color, national origin/ethnic background, or primary language of either the child or prospective parent.
- Financial incentives or penalties should encourage state, county, and other agencies with responsibility for children in foster care to comply with *all* of the provisions listed above.

This legislative change would protect children by continuing to ensure that placements are not denied or delayed based on their or the prospective family's race, but also would enhance the attention paid to recruitment, retention, and assessment of families from communities that reflect foster children's racial and ethnic background. If we successfully increase the pool of prospective adopters, more children will leave foster care to adoption.

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<sup>26</sup> Smith-McKeever, T., & McRoy, R. (2005). The role of private adoption agencies in facilitating African American adoptions. *Families in Society: The Journal of Contemporary Social Services*, 86(4).

**Statement of Children's Law Center of Los Angeles,  
Monterey Park, California**

Children's Law Center of Los Angeles is a nonprofit public interest legal organization that serves as the "voice" for abused and neglected youth in the largest foster care system in the nation. The dedicated attorneys and staff at the Children's Law Center represent more than 22,000 children in Los Angeles County dependency court. We advocate day-by-day, child-by-child, and case-by-case on behalf of our young clients. We also learn from our experience with individual clients and use that knowledge to advocate for concrete solutions to problems and for broader system reforms.

We are heartened by the commitment shown by the Subcommittee on Income Security and Family Support to improving the lives of the more than half a million children living in the nation's foster care system. We hope to draw your attention especially to the areas of federal funding reforms, provision of adequate mental health services to children in foster care, and assistance to youth who age out of the foster care system without a permanent support system to rely upon.

**Financing: Mental Health Services:**

Key recommendations in the report growing out of the Mental Health Summit include ensuring timely and quality screenings and assessments, instituting early intervention and prevention programs, promoting evidence based practices, enhancing access to services, facilitating system collaboration and communication, and enhancing the voice of youth in this process. Consistent themes centered on the need for better communication, collaboration, tighter controls on the use of psychotropic medications and oversight among the multiple systems charged with caring for abused and neglected children. Lack of continuity of care and frequent changes or interruptions in therapeutic relationships is a significant barrier to improved mental health outcomes and overall well-being.

Over reliance on congregate care and extreme shortages in therapeutic foster care placements may be the single most troubling aspect of our nation's response to children with mental and emotional health problems. Until children can find loving families trained to provide individualized foster care in a family setting we will continue to see children leaving our foster care system in worse shape than when they came into care. Children cannot heal let alone flourish when they are raised institutions and cared for by shift workers. Even the most dedicated group home staff, the most skilled psychiatric technician and the most nurturing nurse or clinical social worker cannot be a substitute for a stable family with a lifetime commitment. Specialized training for parents, relatives and foster parents will allow many children who are currently institutionalized to find their way in their communities.

Youth Aging Out of Foster Care: While foster care numbers are declining, both the numbers and percentages of youth aging out of care on their own is increasing across the country. Foster care was intended to be a temporary solution, until families could get their lives back on track, but for many children it has become a long-term living arrangement.

Youth who leave foster care at about age 18 are often ill-prepared for living independently. They have no safety net, and too many will experience unemployment, poverty, homelessness, and even come into contact with the criminal justice system within the first two years of leaving foster care. We need to do more to ensure that youth entering foster care will find a permanent family to love, nurture, and protect them. For youth who leave foster care on their own, we need to provide more help with practical life skills including how to act in a job interview, help in obtaining a drivers license, and information about programs that can assist youth with housing needs and provide personal guidance in enrolling in a college or trade school. Once out of care youth should have access to supportive services aimed helping them transition to total independence including transitional housing, specialized programs on college campus, and access to health and mental health care.

For some young people there are little or no such programs and for others supports that are available end abruptly at age 21. Significant research shows however, that the majority of young people in America do not become fully independent until age 25 and that former foster youth who receive supportive services past the age of majority experience better outcomes than those who do not.

Quality Representation and Youth Participation in their Own Cases: The availability and quality of legal representation varies dramatically from state to state, county to county and even child to child. A strong legal advocate provides the bridge between the child and the court and between the child and needed services. While all would agree that the child is theoretically the most important person in a any dependency court proceeding, neither policy nor practice stands true to that ideal.

Children are often not recognized as a party to the proceeding, are rarely welcome in the courtroom and even in states where the child is statutorily permitted in the courtroom there are multiple barriers which prevent children and youth from actually attending the hearings. For the few who do attend their own court hearing adult resistance to their participation is common. This posture, often couched in protective terms, is in reality harmful to the child and jeopardizes the integrity of the judicial process.

When children and youth are active participants in their own cases and are supported by a strong advocate the court will have better information, will better appreciate the child's hierarchy of needs and will be better able to make and enforce orders aimed at addressing the many issues this committee and other witnesses have identified.

**Conclusion and Recommendations:**

It is up to Congress to take these accumulated recommendations to heart and undertake now to institute concrete reforms. Each day we delay, an average of nearly 1,500 children in the U.S. enter the foster care system, and 62 foster youth will age out of the system without having found a permanent, loving family. Our nation cannot afford to fail our most vulnerable children in this way.

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**Statement of County Welfare Directors Association of California,  
Sacramento, California**

**Hearing in Challenges Facing the Child Welfare System**

The County Welfare Directors Association of California (CWDA) appreciates the opportunity to submit testimony for the record on the challenges child welfare agencies face in serving children under their supervision. CWDA has long advocated for changes to the federal child welfare financing structure in order to better serve abused and neglected children and their families. We welcome the Subcommittee's interest in improving the child welfare system and will work with you in those efforts.

Each of California's 58 counties operates a child welfare program, under state oversight and in accordance with federal and state rules and regulations. Not only do those programs depend upon revenues generated by each county, but a large share of child welfare financing depends upon state and federal funding streams.

Our State's child welfare system is the largest in the nation, with nearly 80,000 children in our foster care system. CWDA is working actively with the state legislature and the state executive branch on a number of child welfare initiatives. This statement, however, focuses on a few key federal changes we urge Congress to make this year. Our statement also wishes to highlight a report it released this month documenting the need for greater investment in family caregiver support and recruitment.

CWDA supports comprehensive reform of the child welfare system. There are, however, some specific changes Congress can act upon this year which would improve the lives of children and their families. Those issues are described below.

**Criminal Records Checks**

CWDA supports retaining the ability of the State of California and its counties to continue administering their own system of conducting criminal background checks when licensing or approving foster and adoptive parents, including relative caregivers. Enacted last year, the Adam Walsh Child Protection and Safety Act (P.L. 109-248) arbitrarily eliminated the current statutory authority for states to implement their own system of conducting criminal background checks, effective October 1, 2008. California has utilized an option under prior federal law to implement a criminal background check system that is more comprehensive and detailed than federal law. While federal law focuses only on felony convictions, the State reviews all convictions—including misdemeanors—other than minor traffic violations.

California law gives the State limited, case-by-case discretion to approve persons with certain types of past convictions when it is in the best interests of a child to do so, as long as there is evidence that the applicant is of good moral character and the approval would not be detrimental to the child's safety or well-being. State law also contains a list of crimes that are not exemptible under any circumstances. While federal law allows exceptions, they are in extremely limited circumstances that do not appropriately balance the best interests of children against the concerns that are understandably raised when a background check reveals a past conviction.

The new one-size-fits-all federal mandate ‘fixes’ a problem that does not exist and may force more children from relative care into foster care.

CWDA is joined by children’s advocacy groups such as the Child Welfare League of America and the Children’s Defense Fund, as well as the State and City of New York to retain State and local flexibility that is more nuanced than federal law and has *never* resulted in a situation that has harmed a child.

Earlier this year, CWDA collaborated with California’s Department of Social Services to survey counties’ use of criminal records exemptions they granted to relative caregivers seeking approval to care for abused and neglected children. Thirty-three of the State’s 58 counties responded, representing 91.3 percent of the children placed with relatives statewide as of October 2006.

According to the survey results, the exemptions process is rarely used, with only four percent of the 3,381 homes receiving one in the third quarter of calendar year 2006. When the process is employed, however, it makes a huge difference in the lives of the children and families involved. Here is one real example of how California’s process has made a difference in a family’s life.

Four Latino siblings, ages 2, 5, 10 and 12, were taken into custody when their parents went to jail on drug-related charges. The 5-year-old has special health care needs and is diabetic and requires insulin injections. The children were placed in foster homes on an emergency basis while relatives were located and evaluated for placement.

The children were not able to all be placed in the same home, and the 5-year-old had to be placed in a medically fragile home due to her medical condition. Only the 10-year-old was able to be placed in a home near his school. The 2- and 12-year-old were placed together in a foster home that was quite a distance from where they lived with their parents and had to be enrolled in another school mid-year.

The children’s maternal grandparents desired to care for the children and had been an active part of their schooling as well as the 5-year-old’s medical care. They also lived in the same neighborhood as the parents of the children. The grandfather had a conviction for spousal abuse to his current wife that was 15 years old. The grandparents readily admitted to the domestic violence in the past and felt they had learned from and overcome this. They were able to show proof that they had successfully completed therapy together and the grandfather had completed an anger management course. The children have never known the grandparents to be violent in any way. They often spend weekends at their home and take trips with them.

The exemption for the grandfather’s conviction was granted and all 4 children were placed in the care of their grandparents within 2 weeks. The children have all returned to their original school and the 5-year-old is healthy and doing well. The children maintain regular contact with their parents and the grandparents are actively involved in the reunification plan and assist the parents to be successful in their drug rehabilitation.

A chart documenting the survey results is attached at the end of this statement.

#### **Accessing Other States’ Criminal Background Check Registries**

In addition to eliminating states’ ability to establish their own background check requirements, effective October 1 of this year, the Adam Walsh Act also requires states to conduct criminal background checks in other states when a person applies for licensure as a foster care provider. CWDA supports this requirement, but there is no national infrastructure to support the process at this time. Without an automated verification system, child welfare staff will face lengthy delays in recruiting and approving new homes. Until there is federal funding to build and successfully launch a national registry database, CWDA urges Congress to enact a statutory change to delay the effective date of the requirement until the system is created.

#### **SSI Eligibility for Foster Youth**

Every year over 4,000 young people emancipate out of California’s foster care system. The outcomes for them are poor. Sixty-five percent age-out without a place to live; 51% are unemployed; and less than 3% go to college.

Foster youth with physical and mental disabilities are even more at risk and vulnerable than the general foster care population. A provision in federal law makes it even more difficult for those youth to make a successful transition. Currently, counties cannot file an application for Supplemental Security Income (SSI) while a disabled youth is receiving Title IV–E foster care payments. Even for youth with disabilities who are likely to be SSI eligible as adults, counties are not allowed to file the application until the youth leaves foster care, resulting in a three- to six-month period in which he or she has no source of income. Some of these youth become homeless and/or involved in the criminal justice system while they await approval from the Social Security Administration. While retroactive benefits are paid

back to the date of application, the lump sum does not address the immediate crises many of these youth experience in the interim.

The State of California has requested a meeting with the Social Security Administration in Region IX to explore policy changes or a potential waiver to allow applications to be made prior to emancipation.

Ironically, SSI-eligible prisoners with disabilities leaving the criminal justice system receive payments immediately upon release. We recommend the enactment of legislation to enable SSI applications to be filed for youth who are nearing the age of emancipation from foster care, in anticipation that the benefits will start immediately when the youth is emancipated.

The Board of Directors of the National Association of Counties (NACo) approved unanimously a policy in March urging Congress to adopt legislation to remedy this problem.

#### **Family Caregiver Recruitment and Support**

CWDA partnered with the Legal Advocates for Permanent Parenting to publish a report this month documenting the dire need for increased investments in family caregiver recruitment and support. The full report, "*No Family, No Future*" may be accessed at: <http://www.cwda.org/downloads/FamCarePolicyRep.pdf>

The report notes that 77 percent of surveyed California counties report a loss in licensed foster family homes in the last decade. In those counties with longitudinal data, the number of licensed foster homes has declined an average of 30 percent. A combination of low reimbursement rates and high housing costs contributed to this decline. According to the report, the minimal cost of raising a child exceeds the foster care board and care rate by over 43 percent. In fact, kennels in California charge an average of \$620 per month to care for a dog compared to \$494 per month for basic board and care for a foster child.

At the same time that licensed foster family home placements have decreased, foster family agency and group home placements have been rising. These factors have contributed to a mismatch in the placement of children. Less than 50 percent of California's foster children are living in the most preferred type of placements—37 percent with relatives and only 10 percent with licensed foster families.

To address these issues, CWDA is working with the state legislature to enact a critical first step in attempting to stop the decline in the number of family caregivers. CWDA is supporting a bill (AB 324 (Beall)) which increases the basic foster parent rate by five percent in 2008, with inflationary increases thereafter. The measure also creates a recruitment, retention and support program to support foster parents.

CWDA urges Congress to make similar federal investments to support family caregivers.

#### **Federal Funding for Guardianships**

About 40 percent of all children first entering foster care in California live primarily in a relative care placement. Research indicates that these children are more likely to be placed together with their siblings, less likely to have move from one foster home to another and more likely to maintain family relationships and avoid homelessness when they turn 18 than children who are placed with non-relatives.

CWDA strongly supports federal financing of guardianships. Due to the success of California's ground-breaking KinGAP program created in 1998, about 16,000 California children are today living in safe, loving, permanent homes with relatives and have been able to leave the formal foster care system. Participants receive monthly subsidies equal to the amount they would have received as foster parents, with a sliding scale based on regional costs and the age of the child. KinGAP, however, cannot assist non-relatives who assume guardianship of children, because of TANF funding rules. The use of TANF dollars, which are increasingly scarce, to fund KinGAP also places the program in danger of future cutbacks.

CWDA supports federal legislation such as that authored by Rep. Davis (D-IL) (H.R. 2188) to include guardianships as an allowable activity under Title IV-E, and to enable children placed into guardianships to retain IV-E eligibility, with the maintenance subsidy payable to the guardian. Continued receipt of IV-E funding would be consistent with the federal Adoption and Safe Families Act of 1997 (ASFA), which contains provisions aimed at promoting adoption and permanent placement for children removed from their homes due to abuse or neglect. Given the evidence that such placements lead to better outcomes for children, the federal government should support this permanency option.

CWDA appreciates the opportunity to submit this statement for the hearing record and stands ready to work with Subcommittee members to improve the nation's child welfare system.

**County Welfare Directors Association of California (CWDA)  
California Criminal Records Exemption Survey  
March 2007**

Counties were asked to provide data regarding the criminal records exemptions they granted to relative caregivers seeking approval to care for abused and neglected children. The survey period was the quarter July through September 2006. Of California's 58 counties, 33 responded, representing 91.3 percent of the children placed with relatives statewide as of October 2006.

According to the survey results, the total number of homes approved during the quarter (with or without exemptions) was 3,381. The number of homes for which exemptions were approved, 148, represents 4 percent of the total. Note that a home can receive more than one exemption.

Extrapolating to the entire caseload, it is estimated that a total of 3,702 homes were approved during the quarter, with 162 homes (4 percent) receiving exemptions.

The types of crimes for which exemptions were granted breaks down as follows:

Type of crime	Exemptions by survey counties	Exemptions extrapolated statewide	Extrapolated to annual number
Felony not allowed under federal statute	20	22	88
Felony barred for five years under federal statute	64	70	280
Felony for which an exemption is required under CA statute only	92	101	404
Misdemeanor exemptions granted (CA statute only)	1,147	1,256	5,024
Number of homes receiving exemptions (unduplicated)	148	162	648
Total number of homes approved with or without exemptions	3,381	3,702	14,808
Percent of homes receiving exemptions	4%	4%	4%

Of the exemptions granted during the course of a year, an estimated 88 would be for crimes for which the federal government would never allow an exemption, and 280 were for crimes that must be older than 5 years prior to an exemption being granted. These are exemptions that, if no longer allowed, could delay placement for children who have been abused or neglected or result in placements with non-relatives instead of relatives who would have otherwise been able to provide stable, safe, loving homes for them.

Note that it is not known how many of the 280 exemptions for which the federal government requires five years to have passed would have been unallowable under federal law because they were committed less than five years ago. The survey did not request this information.

Supplemental Sheet  
Submission for the Record  
Hearing on Challenges Facing the Child Welfare System  
Statement on behalf of the County Welfare Directors Association of California  
Person Submitting Statement  
Frank J. Mecca  
Executive Director  
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Sacramento, California 95814  
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Mr. Mecca's statement is made solely on behalf of CWDA and does not speak for any other party or organization.

### Statement of First Star

In abuse and neglect cases, court orders determine a child's future, including whether the child will remain in his or her home, the nature and duration of any placement outside the home, the child's contact with parents and other relatives, and the child's access to social services. Clearly, a child's interest in these proceedings is of fundamental importance. However, the level to which children are involved with their legal representation in court varies not only from state to state, but from case to case, and all too often, from hearing to hearing. The root of these inconsistencies lies in the lack of uniform standards for the representation of children, coupled with the lack of sufficient training necessary for attorneys to provide adequate representation to their child clients.

The states' use of different statutory language and mandated roles for child representation has led to much confusion within the field. Although child welfare advocates, over the past two decades, have been diligent in their zeal to improve and enhance legal representation by developing several sets of guidelines and standards in an attempt to provide some consistency among state laws, there is still no established binding legal authority defining the role attorneys should play in representing children, the type of training that will sufficiently prepare them, or the duties and responsibilities entrusted to each one.

While 35 states and the District of Columbia require that a lawyer be appointed to a child in dependency and foster care proceedings, only 17 states require that the lawyer be "client directed," represent the child's "expressed" wishes, and require that the child be heard in court. (*A Child's Right to Counsel. First Star's National Report Card on Legal Representation for Children 2007*) Children in abuse and neglect hearings often do not receive the kind of legal representation that allows the child equal access to justice and to have his or her own voice heard in a court of law.

In fact, most official consideration of a child's "best interests" in abuse, neglect and dependency determinations takes place without the child being heard, without the necessary resources and without the trained, qualified investigation and deliberation that would best serve the child. Each state should require mandatory appointment of an independent attorney to every child in dependency and foster care proceedings. A child's cognitive and developmental abilities and the child's ability to express his or her wishes to the court should be considered and decided by the child's attorney. It is the attorney's role to decide if a child can present his or her wishes and goals; by allowing the judiciary to make such decisions for the child interferes with the independent judgment that a lawyer would apply to representing a client.

According to the American Bar Association (ABA), "the term 'child's attorney' means a lawyer who provides legal services for a child and who owes the same duties of undivided loyalty, confidentiality, and competent representation to the child as is due to an adult client. "Traditional", "client-directed" or "expressed interest" attorneys are governed by the Model Code of Professional Responsibility, the same code that governs attorneys representing adults, and must abide by the child clients' expressed wishes concerning the objectives of the representation, counseling them on those objectives.

The National Association of Counsel for Children has amended the ABA and Model Code standards to provide an alternate representation scheme in certain circumstances, particularly where very young children are concerned. Should the attorney feel that the child's expressed preference conflict with his or her best interest, a GAL should be appointed to advocate the best interest position. The attorney may counsel the child as to what may be in his or her best interest; however, the decision regarding what position will be advocated in court remains in the hands of the child. In cases where direct danger is likely to result from advocating the child's preference, the attorney-client privilege may be abrogated. The ABA states quite clearly that a "nonlawyer [GAL] cannot and should not be expected to perform any legal functions on behalf of a child."

The child welfare system is intricate—involving many agencies, organizations, and individuals. Ultimately, however, it is state government that has primary responsibility for carrying out child welfare programs and for protecting children in their care and custody. But because states retain significant latitude in the design and delivery of child welfare services, there is significant variation across states in practice and policy. It is clear, then, that in order to effectuate the best practices throughout the states with regards to representation of children in abuse and neglect proceedings, the federal government must play a vital role.

The federal government's responsibility to abused and neglected children must include creating and implementing a common policy framework in which representa-

tion of children should be carried out; sharing in the financing such representation; and, holding states accountable both for using federal dollars in an appropriate manner and for achieving the results that federally sponsored programs are intended to accomplish.

As such, Congress should encourage the development of national and state professional standards to ensure that attorneys representing children in maltreatment and dependency cases are trained in child law and provide effective representation to their child clients. National uniform standards for practice, such as the American Bar Association's *Standards of Practice For Lawyers Who Represent Children In Abuse and Neglect Cases* (1996) and the National Association of Counsel for Children's *Recommendations for Representation of Children in Abuse and Neglect Cases* (2001), should be further developed and their adoption strongly encouraged by federal law to the full extent possible.

In addition, Congress should amend the Child Abuse Prevention and Treatment Act (CAPTA) to require:

- That an independent, competent, and zealous attorney be appointed to represent the interests of children in all child abuse and neglect proceedings
- That attorneys be trained and practice in accordance with the standards arrived at by the American Bar Association.
- Every child shall be entitled, to the fullest extent possible given the child's cognitive and developmental capacity, to contribute his or her voice to the proceedings through counsel.
- That each state report on its current representation model and standards, stated goals for the representation of children, and steps being taken towards their implementation.
- Better oversight and enforcement of the Act's provisions, including strict penalties for states that delay in complying with such standards to protect children.

Thirdly, Congress should work to pass new authorizing legislation in order to attract and retain trained and qualified lawyers in the dependency practice area by the development and implementation of standards for reasonable compensation for dependency counsel; the establishment of loan forgiveness programs for children's counsel; the development and implementation of standards for reasonable attorney caseloads; and the allocation of resources and support for attorney training. This should be done concurrently with the explicit rejection of any proposed legislation that weakens a federal or state position on the need for competent, trained legal counsel working for abused, neglected and dependent children.

Lastly, Congress must ensure legal services for children by assisting the states in providing such services. A state's dependency law should be designed to promote the safety, stability, and well being of children through the provision of high quality legal services for child clients. To this end, all states should:

- Require a statutory right to counsel for every child involved in child welfare proceedings;
- Require that counsel for children advocate for the expressed wishes of the child in a client directed manner;
- Provide specific training requirements for all child's counsel and mandate multi-disciplinary interaction between counsel and other professionals;
- Require that a child be considered a party entitled to notice, and be present in all child protective, foster care or dependency proceedings;
- Specify that each juvenile has the right to continuous representation by the same counsel at all stages of the proceedings, including all reviews and appeals and;
- Ensure that all children's counsel be bound by the ethical and professional responsibilities established by the traditional attorney-client relationship, including the duty to maintain client confidences. The law must contain appropriate provisions to account for a client with diminished capacity. In addition, the law must reject any immunity from malpractice liability for children's counsel.

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### Statement of Generations United

Generations United is pleased to submit testimony to the Subcommittee on Income Security and Family Support. This testimony addresses the needs of children and youth who are being cared for by relatives both inside and outside the formal foster care system.

As an organization dedicated to bolstering communities through meeting the needs and promoting the strengths of all generations, Generations United (GU) has

a special interest in ensuring that grandparents, other caregiving relatives, and the children they raise lead healthy and stable lives. Generations United is in a unique position to address the issue of relatives raising children from the perspectives of both the young and old. As a result Generations United has emerged as the national leader in a growing field of organizations focused on the more than 6.7 million children being raised in grandparent- and other relative-headed households.

## BACKGROUND

More than 6.7 million children are being raised in a home run by their grandparents or other relatives according to the U.S. Census Bureau's 2005 American Community Survey. This represents an increase of more than 222,000 children or 3.4 percent since 2000. Overall, about one of every 12 children in this country lives in a household headed by a grandparent, aunt, uncle, sibling or other relative. Nearly 2.5 million grandparents take primary responsibility for their grandchildren—perhaps because of parental illness, substance abuse, incarceration, poverty or the exigencies of an increasingly mobile workforce. Many of these children live with relatives because they have suffered neglect or abuse in the parental home. Relatives save the state millions of dollars each year, and keep millions of children out of state custody, by raising them when their parents cannot. There is very limited help available to families like this, and the help there is can be very hard to find.

Some relatives become registered foster parents in order to take care of children. On any given day over half a million children are in the foster care system. About one quarter of these live with relatives. Many of the children will be able to be reunited with their parents. Others will be adopted by the relatives who took them into their homes. But some—nearly 20,000—languish in foster care after courts have decided that reunification and adoption are just not an option. Although being a part of the formal foster care system opens the door to many helpful resources, it is not an ideal long-term solution. For this group of children, their best hope of a permanent home is guardianship. Children in foster care can often find a safe and stable home with family members, but some need federal help to make that home permanent.

## RESEARCH

### How Children Fare In Relative Care

The research in this section is drawn from a report published by Generations United, Kids Are Waiting and the University of Illinois titled *Time for Reform: Support Relatives In Providing Foster Care And Permanent Families For Children*. It shows that children are safe, stable and connected in relative homes. Initially, relative foster care was seen primarily as an emergency response to provide care for children entering foster care. Over time, however, practitioners began to observe, and research confirmed, that many children placed with relatives fared better than children placed with non-related foster families. Research shows that children in relative foster care placements as compared to those in non-relative foster care are: safe if not safer; more stable; more likely to remain with siblings; and more likely to stay connected to community and culture. Relative placements are often overlooked as a safe, permanent option for children. In many states, a preference for placement with relatives has been codified in law and practice, however, this is practice is not implemented nationwide.<sup>1</sup>

**Safety:** A federally funded study in 1999 that examined rates of re-abuse of children found that children in foster care who were placed with relatives did *not* experience higher re-abuse rates than children with unrelated foster parents. More recent studies also reveal that children placed with relatives are often safer. In fact, research in Illinois from 1995 to 2005 shows *lower* rates of abuse in relative homes than in homes of unrelated foster parents. The findings demonstrate that with appropriate screening for safety, the homes of relatives are just as safe if not safer than the homes of unrelated foster families.

**Stability:** It is widely recognized that moving children from one home to another is detrimental to their physical, emotional and developmental well-being. For children in foster care, stability is usually measured by whether and how often children

<sup>1</sup>The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, provides that “in order for a State to be eligible for payments under this part [Title IV–E], it shall have a plan approved by the Secretary which . . . provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining the placement for a child, provided that the relative caregiver meets all relevant State child protection standards.” 42 U.S.C. § 671(a)(19).

experience changes in foster care placement over the course of a year. National data show that children placed with relatives are less likely to have a change in placement. According to the latest national data (2002), 82% of children in foster care who were placed with relatives were with the same caregivers one year later, compared to 65% of children placed with non-relatives.

**Sibling Connections:** Placements with relatives help to reduce the trauma and separation that accompany children's removals from their parents by preserving children's important connections to their siblings. Research shows that sibling relationships play a major role in how children develop and learn to interact with other people.<sup>ii</sup> Children placed with relatives are more likely than children in non-relative homes to be placed with their siblings. Research in California shows that 40% children placed with relatives are not living with all of their siblings in care while 64% of those in non-relative homes are not living with all of their siblings.<sup>iii</sup>

**Community Connections:** Children with relatives are also more likely to maintain ties to their community, school and culture. For example, research shows that fewer children in relative foster care report having changed schools (63%) than do children in non-relative foster care (80%).<sup>iv</sup>

**Permanent Homes:** Relatives are frequently willing to provide a permanent home, as long as they have the crucial financial resources to do so. Research in Illinois found that 80% of relatives caring for children viewed them as "already home." Two thirds of these were willing to consider adoption. For the remaining one third—caregivers who want to offer a permanent home, but don't want to adopt—guardianship is an important permanency option. There are a lot of reasons why adoption might just not be right for a family. Sometimes the reasons are personal, sometimes cultural.

## RECOMMENDATIONS

### Allow States to Use Title IV-E Funding to Support Subsidized Guardianship Programs

A fundamental step that could help many children being raised in grandfamilies would be to enact the Pew Commission on Children in Foster Care's recommendation that federal guardianship assistance be available to all children who exit foster care to live with a safe, legal guardian when adoption or reunification with parents is not a viable permanency option.

The Pew Commission's recommendation would help give permanent homes to about 20,000 children who have lived for a year or more in grandfamilies in the foster care system, but cannot leave the system because they do not have any other options.<sup>v</sup> For these children, a court has already ruled that reunification with the parents or adoption is not feasible. However, leaving the system without financial assistance is often not an option because the caregivers cannot afford to give up the monthly financial stipend that foster care provides for these children they did not expect to raise. So, despite the fact that the children are in loving, safe homes, the children and their relative caregivers remain in the system. They have to routinely meet with social workers and judges who could at any time remove a child from the relative's care. Because the state has legal custody of the child and is the only legally recognized decision-maker, the caregiver and child have to get permission for ordinary childhood activities that most of us take for granted. If the child wants to sleep over at a friend's house or go on a school field trip, the caregiver and child have to get prior approval from the state. Because these grandfamilies have no other option but to remain in the system, the number of children in foster care is

<sup>ii</sup> Begun, A.I. (1995). Sibling relationships and foster care placements for young children. *Early Child Development & Care*, 106–237–250.

<sup>iii</sup> Needell, B., Webster, D., Armijo, M., Lee, S., Cuccaro-Alamin, S., Shaw, T., Dawson, W., Piccus, W., Magruder, J., Exel, M., Smith, J., Dunn, A., Frerer, K., Putnam Hornstein, E., & Ataie, Y. (2006). *Child Welfare Services Reports for California*. Retrieved [January 23, 2007], from University of California at Berkeley Center for Social Services Research website. URL: <<http://cssr.berkeley.edu/CWSCMSreports/>>

<sup>iv</sup> National Survey of Child and Adolescent Well-Being (NSCAW) CPS Sample Component Waiv 1 Data Analysis Report, April 2005. (Washington D.C.: U.S. Department of Health and Human Services, ACF, 2005).

<sup>v</sup> *Fostering Results* (2004). Family Ties: Supporting permanence for children in safe and stable foster care with relatives and other caregivers. This 20,000 number comes from 2002 AFCARS data. 77 percent of children who have been in long-term relative foster care have been living in the same relative home for a year or more, and 27 percent for four years or more.

inflated, and expensive and routine administrative and court costs have to be paid for by taxpayers.<sup>vi</sup>

Subsidized guardianship programs solve these problems. They allow children to safely exit the system into guardianships with their relatives, and provide monthly financial assistance for the care of the children. The children get a permanent, safe home with their loving grandparents, aunts, uncles or other relatives. Subsidized guardianship respects cultures in which adoption and termination of parental rights defy important societal norms of extended family and mutual interdependence such as in many American Indian/Alaska Native and African American families, which are over-represented in the child welfare system. This suggests that subsidized guardianship is a promising tool for reducing over-representation of children of color in the child welfare system.

More than half of the states have a subsidized guardianship program, which they finance on their own through state sources, Temporary Assistance for Needy Families funds, or an expired federal waiver program that allows some states to use federal Title VI-E of the Social Security Act child welfare monies for this purpose. However, because this waiver authority expired as of March 31, 2006, no other states can currently get authority to use their federal child welfare funds for subsidized guardianship programs. Furthermore, the federal waiver process requires the use of a control group. This means that many youth, for whom subsidized guardianship would be the only route to permanency, are denied it because they are randomly assigned to a control group.

Despite the proven success of these programs and the fact that guardianship is recognized as a permanency option in federal law, the federal government does not provide reimbursement for all states to have these programs. This leaves many programs vulnerable to cut backs or elimination in times of state budget shortfalls. The lack of broadly available federal support for subsidized guardianship is effectively discouraging subsidized guardianship programs and allowing the 20,000 children to languish in the more costly foster care system without permanency. There are federal legislative proposals pending such as (H.R. 2188) that would work towards rectifying this situation.

#### **Authorize Federal Support for Kinship Navigator Programs**

Many grandfamilies simply do not know where to turn for assistance when children are placed in their care. One effective response to this problem has been the development of state-wide kinship navigator programs, which currently exist in New Jersey, Ohio and Washington, and are being explored elsewhere. These programs provide information, referral, and follow-up services to relatives raising children to link them to the benefits and services that they and the children need. They also sensitize agencies and providers to the needs of relative-headed families.

#### **Allow Separate Licensing Standards for Kinship Foster Parents**

States should be permitted to establish separate licensing standards for relative (or kinship) foster parents and non-relatives foster parents, provided both standards protect children and include criminal record checks. This recommendation recognizes that certain licensing standards for non-relative foster parents, such as requiring a separate bedroom for each child, may not be appropriate for foster parents who are related to the child. Separate standards could make it possible for additional appropriate, loving, relatives to raise their relative children and increase the likelihood that sibling groups would be kept together in their care.

#### **Require Child Welfare Agencies to Provide Written Notification to Adult Relatives of a Child Placed in Foster Care**

Oftentimes, relatives, who could provide safe, stable homes for children, are not aware until months or even years later when a child is taken into foster care. State child welfare agencies should be required to provide written notice within 60 days of the removal of a child from the custody of the child's parents, to all adult grandparents and other relatives of the child, subject to exceptions due to family or domestic violence.

#### **Expand Eligibility for Education Vouchers and Independence Program**

Youth leaving foster care to adoption or legal guardianship after the age of 14 should be eligible for the education and independent living elements of the Chafee Foster Care Independence Program. Currently youth who exit foster care to subsidized guardianship are not eligible. As a result children are discouraged from

<sup>vi</sup>Fostering Results (2004). For additional information, see also GU's All children deserve a permanent home: Subsidized guardianships as a common sense solution for children in long-term relative foster care. (Washington, D.C.: GU, 2006).

exiting foster care to permanency and may remain in foster care only to access the tuition assistance of other independence services. Expanding eligibility for the program would help current and former foster care youths achieve self-sufficiency through the provision of education and training vouchers and access to other programs that help with higher education and daily living.<sup>vii</sup>

These are just some of the key steps that can be taken now as part of creating a continuum of available services. There are, however, many other supports that the federal, state, and local governments implement to help the families, and they are very necessary as part of this continuum. These include financial assistance through Temporary Assistance for Needy Families or “welfare” grants, adoption assistance, the Children’s Health Insurance Program and Medicaid, affordable legal assistance, child care, transportation, hot lines, other referral and information services, and additional community-based and faith-based supportive services.

### CONCLUSION

Generations United appreciates the opportunity to offer our comments to the Subcommittee in regard to child welfare reforms. As the Subcommittee moves forward, we look forward to continued dialogue and stand as a resource for needed information. We hope this hearing serves as a spring board for comprehensive reform that results in reduced numbers of children being abused and neglected and paves the way for a safe and permanent home for every child.

For more information contact Jaia Peterson Lent at Generations United.

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GrandParents United  
Hockessin, Delaware 19707  
May 13, 2007

The Honorable Congressman Jim McDermott  
Chair, Income Security and Family Support Subcommittee  
House Ways and Means Committee  
1102 Longworth House Building  
Washington, D.C. 20515

Dear Congressman McDermott and Committee Members,

First, thank you for the time to present this written testimony. I am a former relative caregiver and now an advocate for children who need family ties. I work daily with Kinship caregivers; I know their frustrations, joy, pain of watching a child suffer and disappointment in our child welfare system. And most important their hurdle to save the children they love so unconditionally. I am the Vice President for GrandParents United DE, Inc. I also run all of our support groups in my county, hands on experience. What do I do, everything from where to get a child birth certificate, medical affidavit, parenting classes, counseling for the children who have been abused and or suffer multiple disorders from the trauma they have suffered. I go through the journey with them and for them; I am not paid but love what I can do to make a difference in their outcomes.

One issue I see with the child welfare system begins with the Interstate Placements Act only addresses children in formal foster care. When I read the right to be heard we whom are saving children from the formal foster care system have no right to be heard. Home studies are with children that relative caregivers would like to have placed with them and keep family ties for the benefit of and the best interests of the child are few and far between. We have ask more from our social workers and incontestably the perks that states receive in formal care and adoption only exclude the relative caregivers of this great country.\*1

#### **“Joining Forces for Delaware’s Children Summit”**

Next would be we have a broken system. Last year we in Delaware had a wonderful opportunity to attend “Joining Forces for Delaware’s Children Summit.” Only the second in the Country to be held bringing together Family Courts Judges, Child Protective Services, Pew Commission, State Police, CWLA, ACFS. Former Chief Justice of Minnesota Supreme Court, juvenile judge, legislator, attorney who prosecuted child abuse cases Kathleen Blatz now a child advocate for reform of our broken system, and any and all Child Advocates. We at GrandParents United DE, Inc. happen

<sup>vii</sup> [http://www.acf.hhs.gov/programs/cb/programs\\_fund/state\\_tribal/jh\\_chafee.htm](http://www.acf.hhs.gov/programs/cb/programs_fund/state_tribal/jh_chafee.htm) and S. 661 SEC. 201 (c)

to be a grassroots group not only for grandparents raising a grandchild but Aunts, Uncles, siblings and the children who have suffered the trauma that most of us never have had to endure. “Blatz, in her previous incarnation as a lawyer for the state in child welfare cases, saw kids wait six years in foster care before the court terminated their abusive parent’s custody rights and completed adoption. She saw kids bounced to new foster homes, five, ten, even twenty times.” We listen and hope for change but as of today we have seen little.

As everyday citizens who happen to advocate for children we heard what we have known. “Kids are getting lost in the system,” says. Former Chief Judge Blatz “We can do better, and we must do better for kids. And so when I became chief justice, you know what? I ran out of excuses. If I could not help bring about some change, who could?” She sent a strong message that we need to reform the courts and child welfare system. We must all look at this through the eyes of the child.

“Judge Byars, what were you seeing in your courtroom that made you press so hard for these changes? What was wrong with the system before?” **Judge Byars: “Every child deserves a family . . .”** “JUDGE WILLIAM BYARS, 5th Circuit, South Carolina: In South Carolina, we ended up having children in care for an average of 40 months. We had—we figured we had—they were not going to new homes. They were stuck in the system that we had designed, that we were implementing at that time. And children—it just came down to a belief of need to look at the system through the eyes of a child. That is the person who was the victim. That was the person who was being hurt. Every child deserves a family, and that was what our effort is based upon.”

I also learned that 59% of these children end up in the juvenile justice system and as adults 30% end up violent offenders. So where is the justice the right to advocate for children who were thrown away? I know in Delaware the motto is “Think of the Child First”, it is a good thought but not a practice. On any given day over 800 children are in foster care and 68 age out each year with no place or family to go home too.

**“Joining Forces for Delaware’s Children Summit” Hear it from a child’s perspective:** “At one of the break out sessions that I attended was a panel of Foster Kids who have aged out. The first question, after their age and name, was what brought them to foster care. The first boy said “his grandmother was raising him and his two sisters and she lived on a fixed income and couldn’t keep them all, so she put him in foster care.” The hair on the back of my neck stood up!!! Later I saw ask someone from the Office of the Child Advocate there. So, I emailed her about what the boy had said. I asked her if there was more to his story if not the State of Delaware should be ashamed of themselves! She emailed me back yesterday that she didn’t know if there was more to the story but that she agreed with me!” \*Tina Light co-founder and President, GrandParents United DE, Inc. a grandmother raising two grandchildren for over ten years now also sits on the Child Review Placement Board in DE. She has nearly singled handed sign on nine attorneys’ to represent grandparents on a new Pro Bono Program she has worked diligently on. She is a volunteer to her community. This is a true advocate for all children who need hope for a brighter future.

#### **“Lost And Found”**

“Thirteen-year-old Samara has been in foster care her whole life and now lives at “Five Acres,” a treatment center for troubled kids. Officials tell 60 Minutes she does well in school, but that she struggles with severe depression, despite years of therapy and medication. Last Christmas, Samara admits she was in pretty bad shape and even tried to hurt herself. Asked what was going on inside of her, she tells Stahl, “Cause the other kids. They used to go on visits with their family and all, and I was stuck at the house. Like for Christmas, everybody else was out.”

“Everyone was out with some relative but her. “She was very suicidal, very self-harming,” Marylou McGuirk, Samara’s therapist, remembers. “Is your analysis of her case that it was all stemming from the loss of her mother?” Stahl asks. “I believe it was the loss of her family,” McGuirk explains. “Not having a support system around her. And that trauma—was there was no healing process for that.” Kevin Campbell, who created and runs “Family Finding,” went to Five Acres last winter to teach the staff how to find Samara’s family.”

“If the situation was so bad that the state had to take a child away from that home, why under any circumstances would the state put them back into that home?” Stahl asks Campbell. “We may not be ever considering placing the child back in that home. What I’m looking for is ‘Does he have an aunt or an uncle or a great-aunt or uncle who’s safe with their kids and has done a good job and would be there for them,’” he says. “What do you do when you find family members who say, ‘No, I don’t want anything to do with him or her?’ “We do is keep moving.

You're not done until you've found at least 40 relatives. Don't stop," Campbell explains. "The minimum first step is 40." "That seemed like a long shot, since Samara was considered a "cold case." Not a single relative was known. The search began with just a few details about her mother. "I have her first name, we think an accurate spelling, a middle initial and a last name. We think she was in Culver City, Calif. We think that she's 27 years old," he explains. That's all they had. And yet, with the help of a company called "U.S. Search," they were able to find not only Samara's mother, but a virtual family tree. **Within two hours, the search yielded 44 family members.**"\*3

**To me that indicate there is no excuse for so many children living in foster care.** The number of sustained child abuse cases is alarming. More alarming are the cases closed under three conditions and no services, which I learned acting as a pro se and cross of a supervisor in Delaware's Child Protection Division. They are: A.) Closed with out concern B.) Closed with concern C.) Closed with risk. In 2005 87 Delaware field worker sent a letter to the press that the children in Delaware were not being protected. They cited federal over site and Family Courts hovering over the cases brought to the courts.\*5

We have enacted new laws mandating the number of cases a field worker can be assigned to only to find now children are falling through the cracks. Frankly, how many more stories do we need to hear or litigation\*4 before we and our honorable elected officials say "Its time for major change". When the dollars come from federal level, State's then will make necessary changes. Sadly to say it will be up to those on the federal level to require mandatory notification to relatives to prevent more children from the hopelessly placement in the formal system. It may be time to revise confidentially as well in what CAPTA which unfortunately allows the child welfare system to hide behind. I respectfully thank you for the chance for everyday citizen to comment on the issue that plagues the children of our Country.

Sincerely,

Debbie Fales

## References

1. *Safe and Timely Interstate Placement of Foster Children Act of 2006*: H.R. 5403, to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines. This bill only addressed Foster parents not relative caregivers and placed

'(g) Definitions—In this section:

'(2) INTERSTATE HOME STUDY—The term 'interstate home study' means a home study conducted by a State at the request of another State, to facilitate an adoptive or foster placement in the State of a child in foster care under the responsibility of the State.

SEC. 6. CASEWORKER VISITS.

(a) Purchase of Services in Interstate Placement Cases—Section 475(5)(A)(ii) of the Social Security Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking 'or of the State in which the child has been placed' and inserting 'of the State in which the child has been placed, or of a private agency under contract with either such State'.

(b) Increased Visits—Section 475(5)(A)(ii) of such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking '12' and inserting.

SEC. 7. HEALTH AND EDUCATION RECORDS.

4

Section 475 of the Social Security Act (42 U.S.C. 675) is amended—

(1) in paragraph (1)(C)—

(A) by striking 'To the extent available and accessible, the' and inserting 'The';

and

(B) by inserting 'the most recent information available regarding' after 'including';

and

(2) in paragraph (5)(D)—

(A) by inserting 'a copy of the record is' before 'supplied'; and

(B) by inserting ', and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law' before the semicolon.

SEC. 8. RIGHT TO BE HEARD IN FOSTER CARE PROCEEDINGS.

(a) In General—Section 475(5)(G) of the Social Security Act (42 U.S.C. 675(5)(G)) is amended—

(1) by striking 'an opportunity' and inserting 'a right';

(2) by striking 'and opportunity' and inserting 'and right'; and

(3) by striking 'review or hearing' each place it appears and inserting 'proceeding'.

(b) Notice of Proceeding—Section 438(b) of such Act (42 U.S.C. 638(b)) is amended by inserting 'shall have in effect a rule requiring State courts to ensure that foster

parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified of any proceeding to be held with respect to the child, and<sup>3</sup> after 'highest State court'.

The last AFCARS Report Interim FY 2003 Estimates as of June 2006 (10) **SEC. 473B. TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.**

'(a) Grant Authority—The Secretary shall make a grant to each State that is a home study incentive-eligible State for a fiscal year in an amount equal to the timely interstate home study incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

'(h) Limitations on Authorization of Appropriations—

'(1) IN GENERAL—For payments under this section, there are authorized to be appropriated to the Secretary—

- '(A) \$10,000,000 for fiscal year 2007;
- '(B) \$10,000,000 for fiscal year 2008;
- '(C) \$10,000,000 for fiscal year 2009; and
- '(D) \$10,000,000 for fiscal year 2010.

Facts

1) How many children were in foster care on September 30, 2003? 520,000

5

What were the placement settings of children in foster care?

Pre-Adoptive Home	5%	24,806
Foster Family Home (Relative)	23%	121,511
Foster Family Home (Non-Relative)	46%	240,916
Group Home	9%	45,828
Institution	10%	51,549
Supervised Independent Living	1%	5,525
Runaway	2%	10,657
Trial Home Visit	4%	19,206

What were the case goals of the children in foster care?

Reunify with Parent(s) or Principal Caretaker(s)	48%	249,549
Live with Other Relative(s)	5%	24,450
Adoption	20%	105,171
Long Term Foster Care	8%	44,006
Emancipation	6%	31,793
Guardianship	3%	15,561
Case Plan Goal Not Yet Established	10%	49,469

[http://www.acf.dhhs.gov/programs/cb/stats\\_research/afcars/tar/report10.htm](http://www.acf.dhhs.gov/programs/cb/stats_research/afcars/tar/report10.htm)

\*3. Lost and Found” CBS

<http://www.cbsnews.com/stories/2006/12/14/60minutes/main2269159.shtm>

\*4. Foster Care Reform Litigation Docket

The 2006 Foster Care Reform Litigation Docket (“the Docket”) provides basic information on 71 child welfare reform cases nationwide that are currently in active litigation, a pending settlement agreement, or are significant in some other respect. The Docket also describes a small sampling of damages cases.

<“[http://www.youthlaw.org/publications/fc\\_docket/status/active/](http://www.youthlaw.org/publications/fc_docket/status/active/)”> Active Litigation

<“[http://www.youthlaw.org/publications/fc\\_docket/alpha/aswvmink/](http://www.youthlaw.org/publications/fc_docket/alpha/aswvmink/)”> A.S.W. v. Mink

<“[http://www.youthlaw.org/publications/fc\\_docket/alpha/carsonpvheinema/](http://www.youthlaw.org/publications/fc_docket/alpha/carsonpvheinema/)”> Carson P. v. Heineman

<“[http://www.youthlaw.org/publications/fc\\_docket/alpha/dupuyvsamuels/](http://www.youthlaw.org/publications/fc_docket/alpha/dupuyvsamuels/)”> Dupuy v. Samuels, also known as Dupuy v. McDonald

<[http://www.youthlaw.org/publications/fc\\_docket/alpha/ecvblunt/](http://www.youthlaw.org/publications/fc_docket/alpha/ecvblunt/)> E.C. v. Blunt  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/katieavbonta/](http://www.youthlaw.org/publications/fc_docket/alpha/katieavbonta/)> Katie A. v. Bontá: Case status  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/oliviayvbarbour/](http://www.youthlaw.org/publications/fc_docket/alpha/oliviayvbarbour/)> Olivia Y. v. Barbour  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/wrvconnecticut/](http://www.youthlaw.org/publications/fc_docket/alpha/wrvconnecticut/)> W.R. v. Connecticut Department Of Children and Families  
 <[http://www.youthlaw.org/publications/fc\\_docket/status/pending\\_settlement/](http://www.youthlaw.org/publications/fc_docket/status/pending_settlement/)> Pending Settlement Agreement  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/andersonvhoustoun/](http://www.youthlaw.org/publications/fc_docket/alpha/andersonvhoustoun/)> Anderson v. Houstoun  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/aristotlepvsamu/](http://www.youthlaw.org/publications/fc_docket/alpha/aristotlepvsamu/)> Aristotle P. v. Samuels, also known as Aristotle P. v. McDonald and Aristotle P. v. Johnson  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/bhvsamuels/](http://www.youthlaw.org/publications/fc_docket/alpha/bhvsamuels/)> B.H. v. Samuels, also known as B.H. v. Samuels, B.H. v. Johnson, B.H. v. Suter, and B.H. v. Ryder  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/braamvstateofwa/](http://www.youthlaw.org/publications/fc_docket/alpha/braamvstateofwa/)> Braam v. State of Washington: Case Status  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/brianavhattaway/](http://www.youthlaw.org/publications/fc_docket/alpha/brianavhattaway/)> Brian A. v. Hattaway, also known as Brian A. v. Sündquist  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/charlieandnadineh/](http://www.youthlaw.org/publications/fc_docket/alpha/charlieandnadineh/)> Charlie and Nadine H. v. Codey, also known as Charlie and Nadine H. v. McGreevey and Charlie and Nadine H. v. Whitman  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/davidcvhuntsman/](http://www.youthlaw.org/publications/fc_docket/alpha/davidcvhuntsman/)> David C. v. Huntsman, also known as David C. v. Leavitt  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/emilyjvweicker/](http://www.youthlaw.org/publications/fc_docket/alpha/emilyjvweicker/)> Emily J. v. Weicker  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/ericlvsbird/](http://www.youthlaw.org/publications/fc_docket/alpha/ericlvsbird/)> Eric L. v. Bird  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/freemanvscoppetta/](http://www.youthlaw.org/publications/fc_docket/alpha/freemanvscoppetta/)> Freeman v. Scoppetta  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/glvstangler/](http://www.youthlaw.org/publications/fc_docket/alpha/glvstangler/)> G.L. v. Stangler, also known as G.L. v. Zumwalt  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/higginsvsaez/](http://www.youthlaw.org/publications/fc_docket/alpha/higginsvsaez/)> Higgins v. Saenz (related to Wheeler v. Sanders)  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/hillverickson/](http://www.youthlaw.org/publications/fc_docket/alpha/hillverickson/)> Hill v. Erickson  
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 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/juanfvrell/](http://www.youthlaw.org/publications/fc_docket/alpha/juanfvrell/)> Juan F. v. Rell, also known as Juan F. v. O'Neill and Juan F. v. Rowland  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/katieavbonta/](http://www.youthlaw.org/publications/fc_docket/alpha/katieavbonta/)> Katie A. v. Bontá: Case status  
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 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/lashawnvwilliams/](http://www.youthlaw.org/publications/fc_docket/alpha/lashawnvwilliams/)> LaShawn A. v. Williams, also known as LaShawn A. v. Williams and LaShawn A. v. Dixon  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/marisolvpataki/](http://www.youthlaw.org/publications/fc_docket/alpha/marisolvpataki/)> Marisol v. Pataki, also known as Marisol v. Giuliani  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/markavwilson/](http://www.youthlaw.org/publications/fc_docket/alpha/markavwilson/)> Mark A. v. Wilson  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/childadvocatevrossi/](http://www.youthlaw.org/publications/fc_docket/alpha/childadvocatevrossi/)> Office of the Child Advocate v. Rossi, also known as Office of the Child Advocate v. Picano and Office of the Child Advocate v. Rhode Island  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/peopleunitedforchild/](http://www.youthlaw.org/publications/fc_docket/alpha/peopleunitedforchild/)> People United for Children, Inc. v. City of New York  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/rcvwally/](http://www.youthlaw.org/publications/fc_docket/alpha/rcvwally/)> R.C. v. Wally, also known as R.C. v. Petelos, R.C. v. Cleveland, R.C. v. Hornsby, and R.C. v. Nachman  
 <[http://www.youthlaw.org/publications/fc\\_docket/alpha/roevohiodhs/](http://www.youthlaw.org/publications/fc_docket/alpha/roevohiodhs/)> Roe v. Ohio Dept. of Human Services, also known as Roe v. Staples  
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 <[http://www.youthlaw.org/publications/fc\\_docket/status/damages/](http://www.youthlaw.org/publications/fc_docket/status/damages/)> Damages Cases  
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- National Center for Youth Law, [http://www.youthlaw.org/publications/fc\\_docket/](http://www.youthlaw.org/publications/fc_docket/)

**Child Protection Doesn't Work for Kids**  
**ROBERT ATKINSON and BRUCE FISHER**  
**07/21/2005**

The News Journal covered a recent report of the Child Protection Accountability Commission, which recommends the Children's Department make improvements by "changing how it sets up cases, considering parents' history more when assessing children's risk of being abused, and improving coordination among agencies involved in a child's welfare."

Too bad the commission didn't seek the perspective of the department's front-line social workers before reaching its conclusions. Had it done so, some of the bare facts regarding conditions within the Children's Department, which somehow have eluded the commission, would have become known.

Dangerously high case loads, unrealistic expectations of Family Court judges, ever increasing bureaucratic tasks, understaffing and insufficient funding have resulted in a demoralized workforce, and ultimately a deficient response to the needs of at-risk children in Delaware.

In meetings with their management, social workers have made impassioned pleas to address the situation. Management is either incapable or unwilling to act.

The Children's Department has adopted the slogan "Think of the child first." Noble advice! The variance between this ideal and actual practice would be laughable were it not so tragic. Instead, other priorities guide the administration:

- Think of the politics. Recent federal legislation and policy has resulted in a substantial increase in bureaucracy and in the vigilance of the Family Court when children are in the custody of the state. Rather than approaching the General Assembly for significant increases in manpower and funding necessary in today's world, the Children's Department attempts to project the image that it can make do. It is as though requests for additional resources would reflect badly upon the competence of those in charge, and damage career opportunities.
- Think of the Family Court. Only a fraction of the families involved with the child protective arm of the Children's Department have lost custody of their children to the state. Most of the families are intact, meaning all the children are at home in the care of their parents. However, due to federal dictate, Family Court hovers over custody cases, often ordering activity inconsistent with established policy and in excess of available resources. The court does not consider how those demands interfere with the overall child protection effort.

For instance, the ability of the department to safeguard children not in state custody but at home is compromised by the court's diversion of manpower and funds to custody cases. Many employees believe this imbalance is inviting tragedy. Children's Department management has been approached by social workers many times about this situation, but has not made changes.

- Think of the numbers. The number of cases that child protective workers may handle at any given time is capped by state law. Children's Department management must report to designated legislators periodically on caseload sizes in

relation to the legal maximum. Some administrators have become adept at juggling numbers so as not to alarm their legislative overseers.

As a consequence, many child abuse investigations are completed on a hurry-up basis. There are far too many instances of the caseload maximums, already set far too high, being violated.

There also exists the practice adjusting the flow of cases to social workers to keep the caseloads within the legal maximum, which creates surges of new cases that are difficult to manage.

- Think of the money. Along with most other state governments, Delaware has had financial challenges during recent years. The Children's Department will take the position that, despite money problems, services for children have not diminished. This is just not so. Department workers have had far too many experiences where essential services have been cheapened or delayed because of financial constraints. In developing contracts for services, the department has hammered providers so hard that many have withdrawn, rather than be driven into a losing proposition or delivering inferior quality.

The Child Protection Accountability Commission should broaden its sources of information when developing recommendations. Tapping into the wealth of experience from those in the trenches would be a good move.

Robert Atkinson and Bruce Fisher are family crisis therapists at the Division of Family Services in New Castle County. This article also was signed by 87 other employees of the division.

<http://www.delawareonline.com/apps/pbcs.dll/article?AID=/20050721/OPINION07/507210326/1108/OPINION>

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#### Statement of Kimberly L. Blue

Mr. Chairman and Members of the Committee, I welcome this opportunity to discuss the problems many parents of color and immigrants encounter with the child welfare system in particular—Child Protective Services.

I make this testimony as an advocate for family—my family—that was destroyed because of a multilateral system rife with unchecked discrimination and personal prejudices.

My boys became involved in the child welfare system after I sought relief from Family Court for a domestic violence incident. Our lives became a living nightmare when this system came into our lives.

Judge Balkin ordered my children into the system three weeks after our home caught on fire. There was nothing more important to me than to keep us together as a family after suffering such a terrifying and tragic incident.

The constant harassment and irrelevant recommendations by the “experts” just did not make any common sense to me nor addressed the issues that my family was facing at the time.

To be mandated to go to counseling when the caseworker can not specify what type of counseling is needed is absolutely absurd. To have the judge tell you that “she can not intervene” when the visitation agency writes a discriminatory report is truly absurd. To have the judge tell you that “she’s making a conscious decision” when she mandates you back into a detrimental situation to visit your children is truly not wise.

Every year you hear these same agencies telling you that they need more funding. And every year you give them more funding. This agency has not only exceeded its number of casualties but has improved nothing that needs to be improved within this agency and its collaborators—DISCRIMINATION!

It has been seven years since I have seen my boys but as a grieving mother I advocate on behalf of other families who may otherwise suffer horrific consequences at the hands of discriminatory child protective caseworkers without my assistance.

Members of the Committee—Control the discrimination that children, especially families, suffer from this agency’s discriminatory practices—there will be less children in foster care. In addition, America can stand proud to honor its message of being an “America for Families: Where Children Make Families and Families Make Children” no matter their socioeconomic status. Thank you.

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**Statement of Madeleine Green Wojciechowski**

As a grandparent raising a thirteen year old grandson I know firsthand how difficult it is. How relative caregivers outside the foster care system are under the radar screen. We receive NO support; financial, emotional, educational, no support.

As I reviewed the testimony from other presenters I felt compelled to write. Because an adult makes a mistake that results in a child they are unable to care for it does not make them a bad person. Because they can not care for this child it does not make them a law violator as your speakers suggested. Because our institutions and culture have chosen the easy way out and not addressed how best to assist families in distress we have a dysfunctional system that is expensive at best.

Individuals who have done the best they know and faced up to family responsibilities do not deserve to be demeaned by your presenters rather they should be thanked for their service and commitment to doing the right thing.

Our government efforts should focus on solutions not band-aids, on helping and finding those who are struggling. Many of the grandparents raising grandchildren are compromising their health and retirement through the assumption of these responsibilities. Caregivers should not be forced into poverty because of the added expenses and responsibilities. This outcome leads to a future further compromised, this must be addressed through either a subsidy, tax break, or benefit eligibility.

Personally I postponed my retirement five years to be able to provide for our grandson. It was a life threatening illness that forced his placement with us. I resent the portrayals allowed before your committee and expect the committee to insist on evidence based information as the only materials allowed before the committee, and entered into the record.

Just because someone says it is so does not make it so. Experience has taught me to dismiss those who speak ill of others especially when they are not there to defend themselves.

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**Statement of National Indian Child Welfare Association,  
Portland, Oregon**

The National Indian Child Welfare Association submits this statement on improving child welfare services to Native American children and families. Our constituents, tribal children and families, face many health challenges and child abuse and neglect is certainly one of the most critical of those challenges. Our testimony focuses on the risk factors that exist in tribal communities, the current state of tribal child welfare service delivery systems, and two important proposals that can improve outcomes for Native American children and families: 1) authorization for tribes to directly administer the Title IV-E Foster Care and Adoption Assistance programs, and 2) expansion of the IV-E program to fund guardianship placements.

**Native American Children and Families At-Risk**

Native American children and families are disproportionately represented in the child welfare system, particularly the foster care system. Native American children are placed in out-of-home placements at a rate 2-3 times their population (National Data Analysis System, 2004). This data is reported from state systems and is even more dramatic when you factor in the exclusion of the numbers of Native American children in tribal foster care systems. Data for Native American children in tribal foster care systems is not available in a national aggregate total, but estimates have placed the rate in several larger tribal foster care systems at or above the national figures.

Other known risk factors for child abuse and neglect include poverty, unemployment, alcohol and substance abuse, family structure, and domestic violence. In Native American communities the rates of these risk factors are very high and contribute to Native American children being placed in out-of-home care in high numbers.

Although these rates are very high great progress is being made by tribal governments to confront these issues. The strengths of tribal governments are their knowledge and skills in developing long term solutions that will reduce or eliminate these community problems. New models for research, service delivery, community involvement and prevention are developing in tribal communities every year. The process and outcomes from these models are increasingly being disseminated to other tribes and when possible they are being adapted for implementation in other tribal communities too. Even with these great strides, Native Americans still lag behind the general population on all of these important indicators.

**Poverty and Unemployment**—Overall poverty rates in tribal communities have been very high for many years. While the poverty rate in the United States is 12.4%, the poverty rate for Native American people nationally is over double that rate at 25.7% (U.S. Department of Commerce, 2006). According to the 2000 Census, about 40 percent of Indian children on reservations live in poverty.

Related to poverty rates is unemployment. The majority of tribal communities have little opportunity to establish viable economies that are diversified and can provide gainful employment for their citizens. Other than the relatively few tribes that have benefited from tribal gaming or natural resource dividends, most tribal governments have little ability to raise significant amounts of tribal revenue. According to the 2000 United States Census, the unemployment rate among Native American people nationally was 15% compared to 6% for the general population (U.S. Department of Commerce, 2003). Family poverty levels are also high with almost 26% of Native American families, with children under the age of 18, from the largest 25 tribes living in poverty compared to 12% for the general population. The unemployment rate and poverty rates reported by the Bureau of Indian Affairs for Indian reservation areas are much higher than those reported by the Commerce Department. For instance, the Bureau of Indian Affairs 2003 Labor Force report shows a national average of 49% unemployment for Indian people living on or near reservations. Of those employed 32% are still living below the poverty level.

**Alcohol and Substance Abuse**—Alcohol and substance abuse is prevalent in many tribal communities. NICWA estimates that 85% of child welfare cases involving Native American families involve some form of alcohol or substance abuse. Nationally it is estimated that approximately 65% of all child welfare cases involve alcohol or substance abuse. Methamphetamine abuse is rising in many tribal areas and has jumped to the second most reported substance identified during treatment admissions among pregnant Native American women as reported by state agencies (Substance Abuse and Mental Health Services Administration, 2003). The Indian Health Service reports a 30 percent increase in methamphetamine patients between 2004 and 2005 alone (FY 2008 IHS Budget Justification).

**Domestic Violence**—Domestic violence in Indian Country is difficult to quantify, but studies done since the 1990's and local data have suggested that the rate of domestic violence among Native American women is approximately twice that of the general population. The Department of Justice reports that Native women are more than 2½ times more likely to be raped or sexually assaulted than women in the U.S. nationally. Congress has recognized this and has, in fact, allocated ten percent of Violence Against Women Act grants for tribes. When domestic violence occurs, the victim is less likely to be able to address the immediate needs of her children due to the trauma of the assault, Domestic violence can create a higher risk for child welfare authorities to become involved, especially if it is determined that the children are experiencing harm or are in an unsafe situation.

#### **Child Welfare Services to Native American Children and Families**

As tribal governments and communities try to address the risk factors for children being placed in out of home care they share in the consequences from this risk as families are separated and communities struggle to maintain their identity and shape their future. Reducing the number of Native American children and families in the child welfare system will require solutions that utilize the extended family more and increase the ability of tribal governments to contribute their knowledge and skills.

Until 1978, tribal children were removed from their families in shocking numbers, many times not because the removal was necessary, but because of the lack of understanding and bias private and public agencies had regarding tribal families. Prior to 1980, it was estimated that 25% of all Native American children were in some form of substitute care, most often away from their tribal communities and extended families (Select Committee on Indian Affairs, 1977). During this same period, most of the child welfare services that were provided to tribal children and families came not from tribal government programs, but from federal Bureau of Indian Affairs programs located on tribal lands or by state child welfare agencies. Tribes had very little say in how these programs were designed or operated, and few tribal juvenile courts were in operation.

During this same time, tribal governments also had access to very few federal funding sources to combat this critical community health issue. In most cases, tribal governments only had access to Title IV-B Child Welfare Services funding, which resulted in grants of less than \$10,000 for the vast majority of tribes or BIA Social Services funding, which was discretionary and not available to large numbers of tribes across the United States. This resulted in tribes most often not being involved

in tribal child welfare matters and other agencies deciding how and when their children and families should be served. This created a negative sense of dependency upon these outside agencies and was a barrier to tribal governments and their communities in developing a sense of ownership over these problems and exercise their authority and responsibility to their children and families.

With the enactment of the Indian Child Welfare Act (ICWA) in 1978, Congress set out to reduce the number of Native American children and families that were removed from their homes by implementing new standards on how public and private agencies worked with this population. In addition, Congress made it clear that tribal governments were in the best position to provide child welfare services to their members by acknowledging tribal authority to be involved in child welfare matters concerning their member children and families, and providing small grants (ICWA) to support tribal child welfare programs. Congress also acknowledged that tribal governments should be eligible to receive funding from other federal sources to support child welfare services. New Bureau of Indian Affairs funding was made available to tribes to exercise their authority and responsibility in child welfare. However, the ICWA grant program was discretionary and never funded above \$13 million until 1993. This only allowed for a competitive grants process in which the majority of tribes never received any grant funds.

Today tribes receive direct federal funding from Title IV-B Child Welfare Services and Promoting Safe and Stable Families programs. The grant size has not increased significantly under Title IV-B Child Welfare Services; most tribes are still receiving grants under \$10,000 with the annual outlay to tribes currently about \$5.7 million. Under the Title IV-B Promoting Safe and Stable Families program there are now approximately 134 tribal grantees eligible for funding, up from 89 in 2005. This increase in eligible grantees comes after Congress increased the tribal allocation to 3% under both the mandatory and discretionary programs under this law as it was reauthorized in 2006. For FY 2007 tribes will receive \$11.8 million from this program.

The ICWA grant program is still a discretionary program, but in 1993 it became available to all tribes with the majority of grants being just under \$50,000 a year. Some tribes are eligible for BIA Social Services funding, which can support child welfare services, but the list of tribes that are eligible for this discretionary program excludes over 200 tribes. The funds are also not available to support administration or training costs associated with foster care or adoption services, unlike those reimbursed under Title IV-E.

While the amounts and number of federal funding sources available to tribes has increased some since 1978 tribes still are considerably behind states in their ability to address child abuse and neglect. Parity for tribes regarding the amounts and types of federal funding sources available to states has still not been achieved. While more tribes are eligible for federal funding sources, such as Title IV-B, no tribes are eligible for the larger federal child welfare related funding sources such as Title IV-E Foster Care and Adoption Assistance and Title XX Social Services Block Grant. The small number of tribes that have been able to access some of these federal child welfare program funds have only been able to do so because the state they reside in has passed through a portion of these funds, which is not a mandatory requirement for states.

What tribes do not have access to is a stable source of non-discretionary funding to support the vulnerable children that need foster care or adoption assistance services, such as in the Title IV-E program. Without this funding, tribes are forced to place children in unsubsidized homes, which can lead to instability and failure of the placement, or turn them over to state agencies whenever possible, which burdens state governments and reduces the chance that tribal children and families will have access to services that are specifically geared to their needs. Arlene Templer, Director of Human Resource Development for the Salish and Kootenai Tribes, in testifying before the Senate Finance Committee last year, said that without direct funding her tribe cannot be guaranteed they will be able to provide every child that needs foster care a safe and stable home. Even with a Title IV-E agreement with the State of Montana, she noted that the Salish and Kootenai Tribes are unable to obtain IV-E reimbursement for tribal children that come home from out of state to be cared for by relatives because of restrictions the state has included in its agreement with the tribe.

When tribes have stable funding like Title IV-E they can achieve great things. Three Affiliated Tribes in North Dakota, which has a IV-E agreement with North Dakota, has been able significantly reduce their foster care caseload in the last few years. Having stable funding for foster care, one of the most expensive of child welfare services, promotes the ability of tribes to channel other funds into child abuse prevention and family preservation keeping children out of the foster care system.

Unfortunately IV-E agreements are not available to the majority of tribes, and any of the exiting agreements provide only a portion of the IV-E program to tribes.

**Title IV-E Foster Care and Adoption Assistance Access for Tribes**

Former representative Bill Frenzel, in his role as chair of the Pew Commission on Children in Foster Care, said in his introductory remarks in releasing the 2004 Pew Commission report that “in the name of justice” we need to provide Title IV-E services to Indian children. The Pew Commission recommended, as do we, that tribes be authorized to directly administer this \$7 billion federal entitlement program which is designed to protect and provide permanent loving and safe homes for abused children.

We are appreciative of the support we have had from Members in both Houses of Congress to amend the Title IV-E statute to put this program on a government-to-government basis with regard to tribes. Over the course of the last few Congresses, Representative Camp and Senators Daschle and Smith introduced legislation to accomplish this goal. Last Congress provisions to authorize tribal administration of the Title IV-E program were included in Representative McDermott’s Leave No Abused Or Neglected Child Behind Act (HR 3576). At the March 22, 2007 Senate Finance Committee hearing, “Keeping America’s Promise: Health Care and Child Welfare for Native Americans”, Chairman Baucus and Ranking Member Grassley each expressed support in their opening statements for direct tribal administration of the Title IV-E Foster Care and Adoption Assistance programs.

Tribal governments, certainly no less than state governments, have the legal and moral responsibility to provide protection and permanency for the children under their jurisdiction who have been subjected to abuse and neglect. But the Title IV-E law extends only to state governments and to entities with which states have agreements. There are some 70 tribal-state Title IV-E agreements, many of which do not afford the full range of services to children in tribal custody that children in state custody receive. Many such agreements provide only the maintenance payment for the foster home, but not the training, administrative and other court-related work, and data collection that states receive. And most tribes have no access to the Title IV-E program at all. States remain the grantee under tribal-state Title IV-E agreements and thus are liable for all expenditures. In some cases states will not allow Title IV-E funding to be used for foster homes that are tribally, rather than state, licensed.

Marilyn Olson, Port Gamble S’Klallam Tribe’s Director of Children and Family Programs in Washington State, on conversations with the National Indian Child Welfare Association, said they feel fortunate to have a Title IV-E agreement with the state of Washington. Before they developed the agreement, which is only 18 months old, they had to divert large sums of funding from the tribe’s Bureau of Indian Affairs Self-Governance funds, TANF grant and tribal general revenue funds to operate their foster care program. “We were diverting significant amounts of funding that could have been used to provide child abuse prevention, treatment and substance abuse treatment for the families. We also had to use over half of our tribal TANF funds in order to avoid our children from being placed with families outside our community. Having access to Title IV-E funding gave us hope and resources to keep many more of our children in the community with their extended families.” Port Gamble S’Klallam’s experience illustrates what is possible when Title IV-E funds are available to tribes, but they are one of the relatively small numbers of tribes, in Washington and elsewhere, that have been able to gain access to this crucial federal program.

Direct access to the Title IV-E program for tribes would provide those governments with much needed funding for their child welfare systems, would improve tribes’ ability to recruit and retain Indian foster and adoptive homes, would provide improved and greater permanency services for tribal children, and would provide better support for training and subsidies to tribal foster care and adoptive families. We also support continued authority to continue existing tribal-state IV-E agreements and to establish such agreements in the future.

**Relatives as Caregivers for Native American Children**

In addition to providing direct funding to tribes under the Title IV-E program, we urge Congress to make available resources to relatives who are primary caregivers for members of their family. Some states have child welfare waivers to provide funding for subsidized guardianship, such as Illinois and Washington. This needs to be made available to all states and tribes. Traditionally and today the extended family system is the core of a natural helping system in tribal communities that protected children and participated in their upbringing. Even though this system was under attack by intrusive federal policies and forced placement of Native

American children in boarding schools into the 1900's, the extended family still plays a critical role in tribal communities everywhere in helping care for Native American children. Indian grandparents comprise the largest percentage of any racial/ethnic group with regard to being primary caregivers for their grandchildren. The 2000 Census revealed that 8% of Indian people over the age of 30 have grandchildren living in their homes and 56% of those have primary responsibility for those grandchildren compared to the national average of 40%.

Marilyn Olson, Director of the Port Gamble S'Klallam Tribe's Children and Family Program, in conversation with the National Indian Child Welfare Association, noted that they rely heavily on the use of relatives to place tribal member children who need to be removed from their home. "Our culture and traditions require us to look to relatives first when placing our children. Extended families are the foundation of our approach to healing and caring for our tribal children. In most cases, our relative families are the most appropriate permanent family for our children who can not return home, but we have sometimes struggled to find ways to support these placements." Ms. Olson also stated that going outside the child's extended family system is uncommon and risks alienating the child, their family, and other community members in the healing process.

While Title IV-E and other federal policies encourage the use of relatives, many times the only permanent placement option provided to relatives is adoption. This can cause negative feelings between family members and often results in deteriorating family relationships, many of which are important to the child's well-being. This has a profound affect upon the children in most cases. If family members will not adopt and there is no subsidized guardianship program available to them, the placement agency will most likely move the child to a non-relative home that will adopt. This severs the child's important family connections and leaves the family extremely distressed.

Where subsidized guardianship placements have been available, such as Washington and Illinois, tribal children have benefited greatly. Relatives that could not afford to care for additional children in their home were supported and Native American children were given the opportunity to retain and nurture those important family and cultural connections.

Some state subsidized guardianship programs rely upon a federal child welfare waiver to operate. Tribal children have benefited from these waiver programs in many cases when in state care, but tribal children under their tribe's care may have more limited access due to federal requirements for the waivers and the temporary nature of the waiver. Arlene Templer, Director of Human Resource Development for the Salish and Kootenai Tribes, described to the National Indian Child Welfare Association a situation where a tribal member aunt was caring for a niece and nephew in her home. She wanted to provide a permanent placement for the relative children and was excited about the possibility of the guardianship program in Montana. However, when Arlene applied for her to be a part of the program they were told that this aunt would be in the "control group" and therefore would not receive any subsidy and limited support services if they chose a guardianship placement. The aunt said she could not continue the placement without a subsidy and support services, so she had to return the children to a foster care placement where Arlene says they will likely stay until they age out of foster care because they are not good candidates for adoption.

### **Conclusion**

In tribal communities, family relationships are the most important relationships people will ever have. The sense of responsibility to those family members and their children within the community is enormous. Tribal governments have waited for the day when they will be able to fulfill their responsibility to their children too, and all they need are the resources and opportunities to exercise this responsibility and ensure that all the tribal children and families under their care are provided the supports they need. By providing greater opportunities for tribes to be able to utilize their network of extended family members and providing direct funding from this nation's most prominent child welfare funding source, that promise can be kept. Please join us in bridging that divide. Thank you.

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#### **The National Indian Child Welfare Association**

The National Indian Child Welfare Association (NICWA) is a national, private non-profit organization dedicated to the well-being of American Indian children and families. We are the most comprehensive source of information on American Indian child welfare and work on behalf of Indian children and families. NICWA services include (1) professional training for tribal and urban Indian child welfare and mental health professionals; (2) consultation on child welfare and mental health program development; (3) facilitation of child abuse prevention efforts in tribal communities; (4) analysis and dissemination of public policy information that impacts Indian children and families; (5) development and dissemination of contemporary research specific to Native populations; and (6) assisting state, federal, and private agencies to improve the effectiveness of their services to Indian children and families.

In order to provide the best services possible to Indian children and families, NICWA has established mutually beneficial partnerships with agencies that promote effective child welfare and mental health services for children (e.g., Substance Abuse and Mental Health Services Administration; Indian Health Services; Administration for Children, Youth and Families; National Congress of American Indians; Federation of Families for Children's Mental Health; and the Child Welfare League of America).

If you have questions regarding this testimony or other public policy issues impacting Indian children and families, please contact David Simmons, Director of Advocacy and Government Relations.

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#### **Statement of Public Justice Center**

Thank you for the opportunity to submit this statement on behalf of the approximately 6,600 children currently in foster care in Baltimore City and those who will enter the foster care system in the future. Significant improvements must be made to the foster care system both in Maryland and nationally to prevent yet another generation of foster youth spending their childhoods being moved from temporary placement to temporary placement with less than adequate health care and education and, as a result, entering adulthood woefully unprepared to be productive, healthy and happy citizens. Solutions are available—a number of proposed reforms are set forth in this statement; implementation of those and other solutions requires increased funding, creative and thoughtful programming and a commitment to listening and responding to children and their families.

Unfortunately, by Maryland's Department of Human Resource's ("DHR") own data assessment, the care of Baltimore City's foster children has deteriorated to some of the worst levels in the 18 years since the United States District Court entered a Consent Decree<sup>1</sup> ordering comprehensive improvements in Baltimore City's child welfare program. Some of the alarming statistics<sup>2</sup> for 2006 include:

<sup>1</sup>L.J. v. Massinga, Civ. A. No. 84-4409, was filed in 1984 in the United States District Court for the District of Maryland on behalf of children who had been abused and neglected while under the care and custody of the Baltimore City Department of Social Services. Because, in Maryland, the local departments of social services are controlled by the state Department of Human Resources ("DHR"), DHR is a key defendant in the case. In 1987, Judge Joseph C. Howard issued a preliminary injunction governing several aspects of the children's care. In approving a comprehensive Consent Decree the next year, Judge Howard noted that "[t]he court found overwhelming evidence of serious systematic deficiencies in Baltimore's foster care program such that foster children would suffer irreparable harm if immediate injunctive relief were not granted." 699 F. Supp. 508, 510 (1988). In 1991, Defendants agreed to a nearly identical decree governing the care of children in the custody of BCDSS but living with unlicensed relative caregivers. 778 F. Supp. 253 (1991).

<sup>2</sup>Unless otherwise stated, the data in this statement are from the most recent semi-annual compliance report that DHR is required to file with the federal court (the most recent report was filed February 5, 2007), clarifying documents disclosed by the Office of the Attorney General of Maryland, audits done by Maryland's Department of Legislative Services (DLS), and so-called

- Baltimore City Department of Social Services (“BCDSS”), responsible for providing homes and services to the children, continues to lose foster homes at an alarming rate—more than half of its homes during the last five years, dropping from a high of more than 3,000 homes in August 2001 to only 1,366 at the end of 2006. Largely as a result, the number of children in group homes and residential placements rose from 834 as of Aug. 31, 2001 to 1,536 as of May 30, 2006, a nearly 85% increase. The cost of group placements averages \$60,000 per year, close to eight times the basic foster care subsidy rate of \$635 per month (\$7,620 per year).
- Caseworkers failed to make mandatory monthly visits of children in 33% of continuing foster care cases.
- For children entering foster care, 21% of children entering foster care did not have initial health screens and 56% did not have timely comprehensive health assessments. 64% of children in continuing care did not receive periodic medical and dental care as required by federal and state law.
- One quarter of children in continuing care were not placed in school within one week after placement; 75% of children in relative placements needing special education referrals did not receive them; and 34% of children in unlicensed placements with relatives did not have their education monitored by BCDSS.
- 45% of children in continuing foster care had no documentation of any visits with their parents, even though their permanency plans were reunification.
- Service agreements for families with a permanency plan of reunification were not completed in 25% of continuing foster care and 34% of continuing kinship care cases.
- Funds to prevent foster care placement have fallen to their lowest levels in more than a decade and are serving less than 60% of the families served in 1999.

Despite numerous plans, proposals and promises, Maryland has failed to improve the most basic services—health, access to education, a family—to the children in its care. It continues to shortchange the children of Baltimore City who, in FY2005, made up 65% of the foster care population while receiving only 40% of the state’s child welfare funding.

These failures are not attributable to one particular governor’s administration nor to one particular political party. As with many state programs, attempts at reform are often disrupted by changes of administration which result in changes of leadership and direction at DHR. This problem underscores the importance of enforceable federal laws mandating that states provide basic decent care to the children they remove from parental custody. Current federal laws, while increasingly helpful, still remain insufficiently specific and unenforceable. In addition, many of the problems set forth herein reflect inadequate federal funding under both Title IV–E maintenance and administrative payments and IV–B program grants as well as in the Medicaid program.

Although Maryland has spent countless hours and money in creating multiple plans for improvement over the past ten years, including Maryland’s Program Improvement Plan submitted in response to its dismal results in its Child and Family Services Review, there is little to show for it. An infusion of funding for meaningful prevention and family preservation programs, recruitment and support for foster and adoptive parents and support for kinship caregivers and subsidized guardianships would result in significant savings over time.

However, money is far from the only need in Maryland. Proper administration of the child welfare system would bring significant savings to Maryland while a status quo approach will continue to result in skyrocketing budget overruns. In just the last three years alone, Maryland has squandered hundreds of millions of dollars by failing to have proper placements for children. The number of children in foster care has continually decreased over the past five years, and yet Maryland’s foster care maintenance costs have increased by 75% (from \$204.1 million to \$353.1 million) from FY2005 to FY2008 alone, reflecting the massive shift from foster home to congregate care placements. This is a staggering waste of money that has been caused by Maryland’s degradation of foster homes and the placement of children in expensive, unnecessary, and inappropriate high-end congregate care settings—even though the children do not need these placements and do not want them—they want

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“CAPS” reports, a statewide annual sampling and reporting program abolished by DHR in 2005; there is currently no statewide system for collecting and analyzing data about the child welfare system. The sampling system used in Baltimore City to generate data for the semi-annual compliance reports was found to be unreliable by DLS in a report issued in December 2005, available online at <http://www.ola.state.md.us/reports/Performance/Foster%20Care%20Report%201-6-06.pdf>.

families. Yet the damage to the children far outweighs the travesty of wasted dollars. A truly comprehensive plan is needed to reduce Maryland's dependence on congregate care that has caused this staggering increase in cost.

These are abused and neglected children, most of whom have experienced harm or deprivations that are difficult to imagine. They are the State's responsibility. One would have hoped that the many reports and audits showing how badly the system is broken would have compelled Maryland to make the investments necessary to fix the system but, to date, that is not so.

### Key Areas Needing Reform

#### Placements

The placement "system" is in fact an *ad hoc* patchwork of programs that developed locally without any planning as to needs, priorities, service gaps, etc. Monitoring has been poor, and providers have been allowed extremely broad deference in programming, selection of children, and rejection of children. Group homes now are a dominant form of placement, and their quality is mixed. Maryland has not performed nor commissioned a comprehensive needs assessment for placements since 1989<sup>3</sup> Children are moved from placement to placement without much regard for their needs or whether more focused intervention could prevent removal.

One example of the depth to which the system has fallen was revealed in June 2005 when BCDSS admitted using a rented unlicensed office building as an overnight shelter for children in its care.<sup>4</sup> The facility had only four thin floor mattresses available only in the girls' room (none were available in the boys' area); there were insufficient blankets and pillows (again only enough for four children); there were no shower or bath facilities; no toiletries; no first aid or other health care provisions; and no arrangements for adequate meals. The boys had to stay in a small waiting room area, where there was no room to sleep—they could only sit in hard chairs with armrests that made it impossible to lie down. Moreover, these were not just short-term stays. One girl stayed for twenty-three consecutive nights; one boy had to sit up in the chairs for seven consecutive nights. These children were not in school, and their activities during the day were minimal if they did not find placements. Many just followed their caseworker and spent the day sitting in another BCDSS office, only to return that evening.

All told, 150 children stayed at Gay Street in 2005, most for multiple nights with another 50 staying there in 2006. Mixed together were children who had been in foster care nearly their whole lives and children whose first night in foster care was being spent on the floor of an office in the same filthy clothing in which they had been removed from their parents' home. The mix of population was extremely inappropriate. Younger preteen girls were mixed with much older late adolescents, some of whom had severe mental illnesses and posed definite risks to the younger children. Even a two-year old with a feeding tube ended up in Gay Street.

Even after the disclosure, BCDSS was shockingly slow in remediating conditions and still has not created any long-term solutions. While conditions have been approved, air mattresses and toiletries are now available, it remains an office building—with no shower or bath facilities, no licensed supervision other than on-duty Child Protective Services Workers during the night and on weekends, and no hot food other than microwaveable oatmeal and McDonald's. Furthermore, to avoid use of the facility in late 2005 and in 2006, BCDSS turned to housing children overnight in motels. These youths were not accompanied at the motels by BCDSS employees nor employees of licensed placement agencies; instead, BCDSS used local "mentoring" programs to transport and supervise the children. These unlicensed providers had no legal requirement compelling them to ensure that their employees had passed criminal background checks, yet those employees transported and spent nights (and days) alone with children awaiting placement in hotels or motels.

Needed reforms to the placement system must address:

<sup>3</sup>Although, as required by the General Assembly, the Governor's Office for Children issued two reports on placement needs during 2005 and 2006, neither were based on anything resembling a true needs assessment. The first, the *Joint Chairmen's Report on Out-of-Home Placement and Family Preservation Services* (Dec. 2005), provided only a snapshot of the type of placement for each child in state custody on June 30, 2005. The second, the *State Resource Plan*, issued in August 2006, based its calculation of placement needs *solely* on a "survey of local departments of social services conducted by the DHR Office for Planning in January 2006. There was no attempt to examine a sample of children in care, determine their needs, and extrapolate to the population of foster children in placement or in need of placement. Both reports can be found at <http://www.ocyf.state.md.us/>.

<sup>4</sup>The Baltimore Sun, June 15, 2005.

- **Increase in the foster care reimbursement rate.** Even though foster home reimbursement rates were frozen for fourteen years between 1992 and the end of 2005, DHR opposed in 2006 and 2007 a bill supported by advocates statewide to raise stipends over three years to the amount documented by the USDA as the cost of rearing a child. While Maryland has increased the subsidy significantly in the past two years, it is still far from adequate and there is no legal requirement that increases continue (or even be maintained).
- **Restoration of child care subsidies.** Maryland continues to refuse to restore child care grants to foster parents and kinship care providers, even though DHR has acknowledged that the loss of child care assistance in 2002 was reported by foster parents as the principal reason why so many had left the system.
- **Need for a wide variety of placements.** BCDSS does not maintain a meaningful supply of emergency foster homes, even though the lack of such placements explains in large part the use of the illegal and unlicensed Gay Street facility and of motels. BCDSS has not targeted the two most pressing areas of foster home shortages: homes for infants and for adolescents, including homes (as well as other programs) that will care for teen parents with their children. There are inadequate diagnostic shelter facilities and insufficient supply of therapeutic foster homes. As a result of the lack of sufficient long-term placements, there are often overstays in short-term shelter and diagnostic shelter facilities.
- **Maryland's plans for foster home recruitment and retention aim low and achieve less.** In January 2006, Maryland issued a recruitment and retention plan that called for only a 4% increase in foster homes statewide (only 154 homes) over an eighteen month period ending December 2006. Yet during the first two-thirds of the implementation period, Maryland lost nearly that number of homes in Baltimore City alone.
- **Maryland has squandered available resources,** such as up to \$1 million for supports to foster parent and relative caregivers that was returned to the federal government after a lack of use in FY 04 and a similar refund in FY 05 (the exact amount is not known).
- **Lack of responsiveness to caregivers' concerns and complaints.** The abusive and disdainful manner in which many caseworkers and supervisors treat foster parents and kinship care providers is shameful. DHR cancelled contracts for support centers several years ago and has not restored them. While there are new foster parent associations (after the former ones were defunded by DHR), they are not sufficiently independent to act as an advocacy body for caregivers. Caregivers still have minimal access to court proceedings. As a result, disastrous decisions may be made to remove children with limited input from the caregivers. No ombudsman exists to investigate complaints or redress legitimate grievances. The cumulative effect of this is that word-of-mouth has made it very difficult to recruit and retain foster parents.
- **Long delays in processing of foster home applications and general deterrence of restricted foster care applications by relatives.** Even though state regulation requires applications to be processed within four months, delays of a year or more are common. Caseworkers historically have discouraged relative caregivers from applying to be foster parents, sometimes complying with a requirement that they advise caregivers about foster home licensure in only 60% of the appropriate cases (according to Defendants' data).
- **Failure to provide foster parents and kinship caregivers with information about the children.**
- **Lack of automated and efficient system for finding placements.** There is no comprehensive list of placement options, no automated system to determine vacancies, and no meaningful system to link providers and BCDSS in problem-solving (such efforts have been short-lived).
- **No comprehensive needs assessment.**
- **Group homes are overused and under-monitored.** Their programming often is poor. They have low tolerance for typical teen behaviors, and DHR has long condoned precipitous and unjustified removals. Simple and inexpensive steps to reduce their use, such as sitting down with teens in foster care to talk about relatives and others who might be placement resources, are not taken.
- **Limited utilization of new treatment modalities.** Caseworkers leave treatment issues to the providers. As a result, best practices and improvements noted elsewhere in dealing with mental health, adolescence and other issues have lagged in Maryland.
- **Lack of placements for siblings.**
- **Slow interstate compact referral processing.**

- **Criminal background checks; CPS history checks; and fire, sanitation, and safety inspections for caregivers.** According to 2004 CAPS data, the most recent available, far too many foster home and kinship placements have not had required criminal background checks (more than 25% of foster homes and nearly 50% of relative placements) or fire, health and safety assessments (35% of foster homes lacked annual safety inspections).
- **Overall lack of coordination** between the responsibility for finding placements for children (which falls upon BCDSS) and the responsibility for creating, funding, monitoring, and maintaining placements (a DHR duty).

### Health

Provision of comprehensive health services to children in foster care should not be difficult in Baltimore City, the home of the Johns Hopkins and University of Maryland medical schools and hospital systems as well as numerous other highly regarded hospitals and medical care institutions. Moreover, all children in foster care are automatically eligible for Medical Assistance. Yet Maryland has failed to provide even the most basic appropriate care to the children in foster care in Baltimore City, reflecting what Maryland's Secretary of DHR has acknowledged to be a broken system. Not only do Baltimore City and Maryland have the resources to provide excellent, let alone, decent health care, there are numerous models around the country from which they can draw in designing and implementing such a system. Until recently Maryland has refused to consider much less implement these models which have been evaluated with recommendations for basic components of any successful system by the American Association of Pediatrics ("AAP")<sup>5</sup> and the Georgetown University Child Development Center<sup>6</sup> Some progress may be in the workings; this month, DHR, with the assistance of the Annie E. Casey Foundation, finally convened a workgroup to look at alternatives to the current system.

Some of the basic features of such a system which BCDSS currently lacks include:

- **Initial screening and separate comprehensive assessments.** In the early 1990s, Maryland had a contract through the University of Maryland Medical System to provide comprehensive assessments of children entering foster care. That contract was cancelled after only two years. The high quality of the UMMS assessments gradually has fallen to a poor patchwork of decentralized community-based physical examinations and unconnected mental health assessments. Several years ago, DHR adopted a policy to obtain the physical examinations immediately or shortly after entry into care, so health histories typically are not included or reviewed in many if not most cases. Even vaccination information may be missing. The "assessments" typically are a short handwritten EPSDT medical form that, to a layman, often is illegible, and in any event is ill-suited for a comprehensive assessment. Lab reports are reviewed subsequently and are not incorporated into the document. The mental health/developmental reports are done by any provider available, ranging from excellent (if the child is in a diagnostic placement and already receiving mental health) to poor (a counselor at a group home may be required to write the report). They are not coordinated with the somatic assessments, and they typically are not distributed to the attorneys, the Court, or the parties. As a result, they may be buried in the file and ignored.
- **Timely access to and provision of health care services and treatment.** BCDSS caseworkers and supervisors chronically fail to ensure compliance with needed mental health therapy, specialized medical treatment, referral follow-up, etc. According to DLS audits, in 2002, 28% of children did not receive recommended treatment; in 2004, 48% lacked recommended mental health treatment. For 2004, DHR's own data showed that 20% of foster care cases and 33% of adoptions cases did not receive recommended mental health treatment. Specialized care, ranging from orthodontia to surgery, often is not provided as well, despite obvious and sometimes urgent need.
- **Prompt collection of health histories for children entering care.**
- **Management of health care data and information, and careful monitoring of ongoing health care needs of children in OHP and health services provided to them.** The unit in place only monitors intake cases—ignoring 95% of the children who are in longer-term care.
- **Coordination of care, including alerts to workers and caregivers of health needs of children in OHP and follow-up of unmet needs.** Mary-

<sup>5</sup> *Fostering Health: Health Care for Children and Adolescents in Foster Care*, 2nd

<sup>6</sup> McCarthy, Jan, "Meeting the Health Care Needs of Children in the Foster Care System" (2002) available on line at [http://gucchd.georgetown.edu/files/products\\_publications/fcsummary.pdf](http://gucchd.georgetown.edu/files/products_publications/fcsummary.pdf).

land has taken the position that Managed Care Organization (“MCO”) in which each child must be enrolled serves as the “medical home” because it retains historical knowledge about the child. This is not acceptable under the AAP standards, and for obvious reasons. The MCOs are not care providers, and their only purpose is to fund or not fund medical services. If they do not serve the functions of a “medical home,” their centralized nature is utterly immaterial. Moreover, children who change placements, particularly between group homes, may be required to change doctors and MCOs.

- **Collaboration among all public health and social services systems serving children in OHP.**
- **Family participation (both caregiver and, where possible, parents)**
- **Resolution and coordination of transportation responsibilities for health care.**
- **Immediate and continuous Medical Assistance coverage.**
- **Attention to cultural issues.**
- **Monitoring and evaluation of effectiveness of comprehensive health care system; and**
- **Training and education of caseworkers, youth, parents and caregivers.**

#### **Permanency Planning**

In the recent CFSR assessment, BCDSS fared among the worst in the country on issues relating to permanency, reaching federal standards in only 8% of its cases. Unfortunately, these results surprised no one. While some positive efforts are underway (such as a program based upon the Family to Family model, a new private-public drug treatment initiative, and a model court program for accelerated hearings in certain drug cases), much more remains to be done.

- **Reunification services.** BCDSS never has performed a needs assessment of the services needed for prompt reunification: housing assistance, drug treatment programs, education assistance, etc. As a result, reunification is slow and inconsistent. The lack of housing assistance is a huge problem, but no efforts have been made to obtain assistance from housing agencies for priority status and other help. Several intensive drug treatment initiatives have been attempted, but most failed due to various bureaucratic problems. The number of transportation aides has declined sharply.
- **Flex funds.** The funding for reunification assistance is not dedicated and instead is drawn from the general “flex fund” pool. As a result, during budget shortfalls, these funds may dwindle to a trickle, if not disappear, and those needing assistance in the latter half of a fiscal year may well be denied.
- **Parent visitation.** The lack of regular weekly visitation has been a chronic problem. Nevertheless, DHR has failed to take any measures to enforce a clear and critical requirement that is vital to prompt and timely reunification.
- **Case plans and service agreements.** Besides the documented failure to produce case plans timely, they also typically are rote, formulaic and canned, while service agreements have virtually no substantive content regarding the agency’s commitments and timelines. As a result, the “planning” process in permanency planning is inherently flawed—little real planning occurs.
- **In-patient, family-oriented drug treatment programs.** These need to be greatly expanded. Again, no needs assessment of how much capacity is needed has been conducted to our knowledge.
- **New community initiative.** BCDSS is just beginning its first pilot effort in a new community-based reunification effort based on the Family to Family model. Obviously, such programs have significant potential, but this was tried before in Baltimore, without success, and the current design has significant flaws that need to be corrected if the effort is to achieve the breakthroughs that BCDSS anticipates.
- **Adoptions.** After making significant gains in the late 1990s, BCDSS’s trendlines for termination of parental rights and subsequent adoptions have plummeted. Based on annualized statistics derived from the first half of FY 2007, BCDSS will have obtained 248 TPR decrees, which represents a 66% reduction from FY 1999 (720 petitions granted), and 318 adoptions, which represents a 64% reduction from the number of adoptions in FY 2003 (877 adoptions granted). TPR petitions get filed, but cases often are not ready to proceed to trial, resulting in requests by BCDSS to dismiss the petition or grant large continuances. Adoptions homestudies are infamously slow.
- **Subsidized guardianship.** Maryland took an early lead on pursuing waivers with HHS for subsidized guardianships but then failed to expand the program further. This year, it finally has invested some new funds into the program, but far too little to meet the need. Given the goal of reducing the number of chil-

dren in State custody, and the high number of children in long-term kinship care placements (whether licensed as restricted foster parents or not), subsidized guardianship makes sense and should be available to meet the demand, at subsidy rates commensurate with restricted foster care rates. Congress needs to expand IV-E reimbursement from just foster care or subsidized adoption to include subsidized guardianships.

- **Locating and working with absent parents and relatives.** This chronic problem remains unaddressed. Fathers and/or available relatives often are ignored in permanency planning, or delays occur in identifying and locating them. When they do appear in the case sometime later, significant delays arise as BCDSS is required to make efforts to determine whether paternal reunification or placement with a relative is feasible and then to work with the fathers or relatives toward that end.

#### **Personnel and Case Management**

- Even though reported caseloads have declined in recent years, they are still far from those recommended by the Child Welfare League of America (“CWLA”) and mandated by the Maryland legislature. Instead of 1:12 ratios for caseworkers serving foster children, the average caseload for BCDSS caseworkers is 1:20, nearly twice as high, and its impact on the care of the children and families under their supervision is reflected in the dismal statistics set out in this statement, including: 25% of all foster homes (321 out of 1,552) did not receive required training in the past year.
- During 2006, caseworkers did not make reasonable efforts to provide weekly visits between parents and their children in 37% of continuing foster care cases with permanency plans of reunification.
- BCDSS admits that it did not comply with its own guidelines for changing permanency plans in 33% of its cases.
- Teens are not provided with timely and complete independent living services. Critical delays are not uncommon in securing basic benefits and services (such as financial assistance for college, help with applications, etc.) Some workers are openly hostile to the children. Teens are told they are not eligible for independent living services because they are not in the “teen unit” or are placed with relatives. Runaways are not pursued, and rescission remains a frequent option for recalcitrant youths that turn eighteen and often is the “plan” for 17 or even 16-year-olds.
- BCDSS reports a substantial loss in the number of supervisors even though the latest data demonstrate that caseworkers need more, not less, supervision. One of the foremost reasons for poor casework over the years is the failure of many BCDSS supervisors to identify and remedy the deficiencies. Far too often, the supervisors condone or contribute to the casework problems.

Recently, BCDSS administration has focused on workplace infrastructure and workforce improvements, and some progress may have been made in those areas. Any such advances, however, have yet to translate into visibly improved delivery of services. Caseloads came down when a 2003 hiring freeze finally was lifted, but turnover remains high and cases are distributed very unevenly. Despite heavy investments in computers and new telephone systems, assigned caseworkers remain difficult to reach and, often, difficult even to identify. Uncovered cases persist, cases are not timely transferred, and “coverage” workers continue to appear in court as unacceptable proxies for absent workers. Even worse, often no worker appears at all, causing postponements and further delays of permanency. Good child welfare casework is demanding and requires highly-skilled and dedicated individuals. They need to be supported with increased wages and advanced training. Congress should be increasing, not reducing as was done in the last Deficit Reduction Act, Title IV-E support for administration and training.

#### **Education**

As reflected in the statistics set out above, the basic steps—getting children enrolled in and attending school after changes in placement, securing appropriate special education, and addressing discipline problems constructively—still are not being taken.

#### **Prevention**

As of 2003, children are twice as likely to be in care in Baltimore than in comparable cities. This disparity stems in large part from the lack of appropriate prevention services. The need for adequate preventive services is particularly critical at this point, for, in Baltimore City, the number of continuing child protective serv-

ice open cases has doubled during the past two years, rising from 409 cases at the end of 2003 to 828 case in January 2006.

The easiest and cheapest way to reduce the number of children in foster care is to provide programs and services to families that can prevent the need for foster care in the first place. Nevertheless, funding for programs *proven* to succeed in maintaining families and preventing foster care placement has shrunk dramatically.

- Intensive family services (“IFS”), i.e., those services proven most effective in preventing removal of children from their families serve only 50% of the families and children they served in 1999. The number dropped by 30% in 2005 and 2006 alone.
- The number of families and children receiving other less-intensive family preservation programs dropped by approximately 60% since 1999 and down by 30% between 2003 and 2006.
- The total funds spent on these services in FY06 fell to less than \$94,000 from more than \$170,000 in FY05 and \$310,024 in FY99.

Other basic prevention programs (family service centers, neighborhood outreach, housing assistance, expanded drug and alcohol treatment, in-home aides, etc.) are inadequate, but, because there has not been a needs assessment, it is impossible to determine the magnitude of the need. Funding for family service centers was cut dramatically in 2003, and it has not been restored. Moreover, those programs, while excellent, served parents with young children only and, therefore, do not serve all families in need.

Those groups that have been provided access to child protective services (“CPS”) files, such as the various fatality review boards and CPS review commissions, have raised significant concerns about CPS that need to be addressed.

### **Planning**

Finally, strategic planning for reform has been abysmal. Over the years, Maryland has focused on forms, standard policies, and procedures, not on substantive outcomes and programs that improve the system or the lives of the children. Congress must provide adequate funding and then demand that states meet the standards set in federal law and the Child and Family Services Review so that a system truly responsive to children’s welfare is created and sustained.

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### **Statement of Robert Littlejohn**

Three years ago, the Congressman and legislators from Arizona, New Mexico and California sat and listened as parents, lawyers, a physician, child welfare experts and a foster parent shared horror stories of CPS malpractice. They spoke from a giant horseshoe table (normally used by the City Council) and the lawmakers sat facing them in staff table in front of the stage. Throughout the day, groups of 7 speakers at a time were led up to the horseshoe table and each took their turn speaking for 10 minutes. They worked straight through lunch and the lawmakers were very attentive. The hall was packed with an audience—standing room only—and four video cameras from assorted media taped the entire thing.

All speakers were harshly negative about CPS. Some of the speeches were very emotional (one played an audio tape into the microphone of a child screaming as police ripped him away from his mother). As part of their presentation, each speaker offered possible solutions (reforms) to the problems many had documented so well. Here are some of the most common themes:

- 1) Almost all the speakers said that CPS needed to be dismantled and rebuilt. (A view shared by many social work researchers and other published experts).
- 2) That police assume the role of investigating child abuse. (One lawyer suggested that the social work roles of “helping” and “investigating” should at least be divided and separate—the same worker should not do both jobs)
- 3) Funding be changed—especially Title IV–E funds. The congressman agreed that it needed to be capped and be used by the states for services other than foster care.
- 4) That parents receive effective legal representation. (Speaker after speaker explained the dismal, sell-out work done by public defenders. Juvenile court judges were called to task.)
- 5) Almost all speakers wanted all child welfare hearings opened to the public. There were two excellent reports on what had happened in those states that had opened up their courtrooms (none of the CPS, chicken little predictions have proven true.) It was the general feeling that if courtrooms were opened,

the public would learn how unjust and abusive the system is to children. It was accurately reported that states who have opened up their juvenile and family courtrooms are experiencing more just, family-friendly procedure and decisions.

- 6) That anonymous reporting be stopped.
- 7) Repeal of mandated reporting laws.
- 8) Removing the qualified immunity protection given CPS caseworkers and imposition of criminal sanctions for perjury, false reporting, holding back favorable information, etc.
- 9) Rewriting state statutes to clearly define child abuse and child neglect.
- 10) An investigation into therapist's practice of pseudo-science.
- 11) Court orders (from an actual judge, not officers of the court) for all removals and the requirement that such "pick up orders" be issued only after a showing of probable cause that actual abuse or neglect has occurred.
- 12) That the cloak of secrecy be lifted from child protective services (only the child's name and other identifying information should be withheld from the public).
- 13) That state laws make malicious false reporting a felony punishable by prison time.
- 14) That CPS workers give a full and complete disclosure of rights and responsibilities to parents at the onset of an assessment or investigation.

One parent was a former Navy Seal. He gave a moving testimony of how all of the rights he thought he once fought for were denied him as a father of a child who was abused by CPS. The man drove out to the conference from the East Coast.

The governor in California has taken seriously the complaints reaching his office from parents across the state. He is committed to using Title IV-E funds to keep families together rather than to fund foster care. The imposition of a totally new family meeting plan piloted with help from a foundation will be funded with Title IV-E, for instance.

He has appointed an ad-hoc commission to develop concrete, action steps to accomplish the mission of reducing foster care incarceration by 60%. The funding change alone should reduce the foster care population by more than that. The commission's position is that patchwork reforms will not work—that a total revamping of the system is required.

While this is referring to discussions of three years ago, the suggestions are still the same. The same revamping of the entire CPS system is long overdue and is warranted now. The same suggestions have been made time and time again, ***and yet there is no change!***

I would further add that the CPS in each state be put under the direct supervision of the States' Attorneys, thus forcing the state CPS agencies to come to their office with hard corroborating evidence that child abuse or neglect has occurred, and that further abuse or neglect will put the child in harm's way, thus necessitating the child's removal from the home. If the children have been removed and they have not brought the state's attorney the 75% credible evidence proof to him, they *must*—upon orders of the state's attorney—return the children at once or face stiff penalties from the state's attorney's office.

If the 75% credible evidence has been met, the state's attorney will recommend to the judge that a pick up order be issued to remove the children from the abusive home. The accused must then stand in a trial-by-jury and have them decide whether or not there any abuse had occurred; and if the evidence is flimsy, the jury will return a verdict of *not guilty*, and the children must be returned home at once, with apologies made to the parents by the court, with the further stipulation to the Child Protective Service agency that they will *no longer* become involved with the interruption in the lives of the innocent parents, thus not only returning physical custody of the children to their parents, *but also legal custody of the children—under the threat by the court of a heavy stiff fine if they refuse to obey the decision of the jury and of the court!*

The suggestions above will be a start in making the Child Protective Services a more efficiently run organization. Thank you for your time.

Sincerely,

Robert Littlejohn  
Still father of Diane Carol and Charles William Littlejohn by the will of God,  
though taken away by the Commonwealth of Kentucky.

**Statement of Roma O. Amor, Tucson, Arizona**

IN THE SUPREME COURT OF THE STATE OF ARIZONA  
 Roma O. Amor, petitioner appearing as herself  
 ARIZONA DEPARTMENT OF ECONOMIC SECURITY (ADES) & ITS DIVISION  
 OF CHILDREN YOUTH AND FAMILIES (DCYF)—CHILD PROTECTION SERV-  
 ICES (CPS), Parties in Interest

**MOTION FOR DECLARATORY RELIEF AND COMPLIANCE**

Now comes Roma O. Amor seeking Declaratory Relief for Positive Enforcement to address the issues of the greater public interest of the Constitutional, federal statutory, and Federally-Protected Rights of families and their children who reside in the State of Arizona. Petitioner seeks relief against unconstitutional policies of ADES and CPS that violate Federal Child Welfare Funding Law (Federal Contracts). *CPS has adopted an increasingly unbridled pattern of disregard for the law and its methods of intrusion into the private and family affairs resulting in unnecessary child fatalities and abuse while in ADES custody or under investigation by CPS Agents.*

1. Jurisdiction is conferred by *AZ Rule of Civil Proc. 57, AZ Rule of the Supreme Court 28(G), Arizona Constitution Article 6 Section 5*

2. Venue is found in this court for State of Arizona policies and actions under color of state law of its CPS agency, its Office of the Attorney General, and the Juvenile Courts of its subdivisions.

3. *Questions Raised:*

a) Whether current child welfare laws of The State of Arizona are unlawful, illegal, and unconstitutional under Federal Statutory Child Welfare Funding Law (Federal Contract Law) and the First, Fourth, Fifth, Eighth, Thirteenth, and Fourteenth Amendments to the United States Constitution.

Arizona child welfare laws violate Federal Contract Law under the *United States Constitution Article I Sec. 8 cl. 1 Spending Clause* which gives the U.S. Congress power to place *conditions* on federal funding grants. *Spending Clause* legislation is a contract; in return for federal funds, the recipients (State of Arizona) *agree to comply with federally imposed conditions.*

*See: Davis v. Monroe County Bd. of Ed.* 526 U. S. 629, 640 (1999), *Pennhurst State School and Hospital v. Halderman* 451 U. S. 1, 17 (1981); *see also Davis, supra*, at 640; *Gebser v. Lago Vista Independent School Dist.* 524 U. S. 274, 286 (1998); *Guardians Assn. v. Civil Serv. Community of New York City* 463 U. S. 582, 599 (1983) (opinion of White, J.); *id.*, at 632–633 (Marshall, J., dissenting); *Lau v. Nichols* 414 U. S. 563, 568–569 (1974).

4. *Supporting Statements and Standards of Law Incorporated Herein:*

a) *ARS 41–1962* “Federal law shall control.”

b) Detention/Removal Hearings, Federal Statutory Law, examples  
 —*CFR Sec 1356.21(d) Documentation of Judicial Determinations* (2) *Neither affidavits nor nunc pro tunc orders* will be accepted as verification documentation in support of reasonable efforts and contrary to the welfare judicial determinations. (3) *Court orders that reference State law to substantiate judicial determinations are NOT acceptable*, even if State law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child’s welfare or that removal can only be ordered after reasonable efforts have been made.

If finding is not explicitly documented, *Title IV–E funding is severed under federal law. 45 CFR 1356.21(c)*

—*42 USC 672(a)(1)* Court must make the finding that “continuance in the home of the parent or legal guardian would be contrary to the child’s welfare.” and “removal from the home was the result of a explicit judicial determination and that reasonable efforts have been made”.

This finding must be made at the time of the first court ruling *authorizing removal* of the child from the home or *lose all Title IV–E federal funding. 45 CFR 1356.21(c)*

—*42 USC 672(a)(2)* Court must make finding that “placement and care are the responsibility of the State agency or any other public agency with whom the responsible state agency has an agreement.”

*No federal funding* until findings are made *45 CFR 1356.71(d)(1)(iii)*

—*42 USC 671(a)(15), 42 USC 672(a)(1), and 45 CFR 1356.21(b)(1)* Court must make the finding that “reasonable efforts have been made to prevent or eliminate need for removal.” Mandates Prevention to Prevent Removal

If explicit finding are not documented *Title IV–E funding will be withdrawn. 45 CFR 1356.21(b)(1)(ii)*

—*PL 96–272* Judicial determinations are required to be explicit and so stated in the court order. The Senate Report on the bill that became *Public Law 96–272* characterized the required judicial determinations as “*important safeguard(s) against in-*

appropriate agency action and made clear that such requirements were not to become “a mere pro forma exercise in paper shuffling to obtain Federal Funding.” (S. Rept. No. 336, 96th Congress, 2d Session. 16, 1980 “We concluded, based on our review of States’ documentation of judicial determinations over the past years that, in many instances, these important safeguards had become precisely what congress was concerned that they not become.”

c) State statutes and regulations *cannot* be construed to displace the protections of the United States Constitution, even when the state acts to protect the welfare of children. Cf. *Lorillard Tobacco Co v. Reilly* 533 U.S. 525, 540–41, 121 S.Ct. 2404, 2414 (2001)

d) “State courts can decide definitively only questions of state law that are not subject to overriding federal law.” *Leiter Minerals Inc. v. United States* 352 U.S. 220 (CERT No 26, 1957)

e) “Public policy is better served by imposing a duty in such circumstances to help prevent future harm.” *Gibson v. Kasey* (AZ Supreme Court, No CV–06–0100–PR, 2006; AZ Ct App Div 1 No 1 CA–CV 05–0119) (En banc)

f) ARS 25–408(H/I) Judicial acts and the court must adhere to previous agreed custody agreements

g) ARS 25–403 and 25–403.03 domestic violence and family law

h) Child abuse proceedings involve the government acting in an adversarial role toward the custodial parent, an entirely different circumstance and procedure than divorce proceedings where there is no governmental accusation of fault. “Persons faced with possible forced dissolution of their custodial rights have a more critical need for procedural protections than do those in ongoing family affairs.” *Santosky* 455 U.S. at 753

In *Brittain v. Hansen*, the 9th Cir. Court discussed the greater custodial liberty interest and procedural differences of child abuse and custody cases, and concluded that “by failing to recognize the lesser liberty interest in visitation *Id.* at 992 the court applied the erroneous legal standard “best interests of the child,” quoting *Reno v. Flores*, 507 U.S. 292, 303–04 (1993) and held the “best interest of the child” legal standard applies to custody law not child abuse proceedings”

“Custodial parents have a greater liberty interest than those with visitation rights.” *Brittain v Hansen*, 451 F.3d 982, 991, 992 (9th Cir. 2006), quoting *Weller v Dept of Social Svcs*, 901 f2d 387, 394 (4th Cir. 1990), *Zakrzewski v Fox*, 87 F.3d 1011, 1013–14 (8th Cir. 1996), *Wise v. Bravo*, 666 F.2d 1328, 1332–33 (10th Cir. 1981); “A non-custodial parent lacks prudential standing to bring Establishment Clause challenge based on his relationship with his child.” *Brittain*, quoting *Elk Grove Unified School Dist v. Newdow*, 542 U.S. 1, 13–18 (2004); “Liberty interests of parents with only visitation rights does not give rise to a constitutional violation” *Brittain*, (9th Cir.) quoting *Wise* (10th Cir. 1981)

i) “Substantive Due Process rights are those which involve greater liberties, as those guaranteed by the First Amendment”. *Glucksburg* 512 U.S. at 721–22

*Anthony v. City of New York* 339 F.3d 129, 139 (2nd Cir 2003) “(1) whether any policy makers of the municipality knew that it’s employees will confront or encounter a given situation; (2) that the situation either presents the employees with a difficult choices of this sort and that training or supervision will make less difficult or that there is a **history of the employees mishandling the situation**; and (3) that the wrong choice by employees will frequently cause the deprivation of a Person’s Constitutional rights.” See also: *King v Atiyeh*, *Monell v New York City Dept of Social Services*

*Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 901 (1992), quoting *Miller v. Johnson*, 515 U.S.—(1995) “Legislative purpose to accomplish a constitutionally forbidden result may be found when that purpose was the predominant factor motivating the legislature’s decision.”, *Shaw v. Hunt* 517 U.S.—(1996), *Joseph P. Mazurek, AG of Montana v. James H. Armstrong et al* (Cert. 9th Cir Ct App, No 96–1104, 1997)

5. ARS 8–821 standard of proof for temporary custody is unconstitutional under the USSC “*Matthews Test*” addressed by the AZ Supreme Court in *Kent K. and Sherry K.* ARS 8–821 provides for taking into temporary custody under the “reasonable grounds” standard, similarly vague to suspicion or probable cause. A parent’s interests at this stage are paramount; the interest of the government is to reunite the child with the custodial parent. This error of lowered standard of proof, “reasonable grounds,” at the early stage of proceedings stacks the deck against custodial parents’ greater interest in their child and familial association. *Matthews v. Eldridge* and *Kent K and Sherry K* set the *minimum* standard at “preponderance of evidence”. The goals at this stage are prevention and reunification not termination which does not enter the equation until 12–18 months later. Until the first 18 months pass, a real reunification effort with the custodial parent is mandated

by *federal statutory law (contract law)*. By giving the adverse party the greater interest and lowering the standard of proof thus increasing the risk of error, a parent's case will be lost at the first stage of proceedings, a deprivation of substantive due process to protect the greater interests of the parent. There must be a concrete offer of due process afforded to the parent with the greater liberty interest in adversarial proceedings, not the current level of rubber-stamping and paper-shuffling to meet federal funding guidelines. These are families. *Santosky* 455 U.S. at 753 (holding child abuse proceedings involve the government acting in an adversarial role toward the custodial parent, and such "persons faced with possible forced dissolution of their custodial rights have a more critical need for procedural protections.")

In *Re KG, SG, and TG* (9th Cir. 2004), reaffirming the decision of the U.S.S.C., "This court has noted that the permanent termination of parental rights has been described as the family law equivalent of the death penalty. Consequently, parents must be afforded every procedural and substantive protection the law allows."

6. *ARS 8-824(F)* is unconstitutional; the Standard of Proof is limited to "*probable cause to believe that continued temporary custody is clearly necessary.*" In applying this standard of proof, the court will make an erroneous determination of unfitness *without offer of proof* (common in juvenile court) and substantive and procedural due process of law which will lead to loss of the parent's right to familial association, and in affect, terminated rights to custody. *Kent K and Sherry K, quoting Santosky* (holding erroneous determination of unfitness at this stage could lead to permanently extinguishing the relationship between a fit parent and her child).

7. The State of Arizona encouraged and instituted into state law a vague and easily misconstrued policy of mental illness as reason for removal of a child as well as for termination of parental rights. *ARS 8-533(B)(3)* and *ARS 8-846(1)(b)* "A State shall not be immune under the Eleventh Amendment to the Constitution of the United States for violation of a federally protected right . . . remedies (both at law and in equity) are available." *Title 42 Chap. 126 Sec 12202* and *Title 42 Chap. 21 Subchapter V 2000d-7*, and *Title 28 CFR, PART 35 Nondiscrimination on Basis of Disability, State and Local Government Services*

*Title II of the ADA*, "No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services or programs of a public entity [reasonable efforts to prevent removal and reunification programs of CPS], or be subjected to discrimination by any such entity." *42 USC 12132* A "public entity" is defined as "(A) any State or local government; or (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government." *42 USC 12131*

"Where a statute authorizes conduct that is 'patently violative of fundamental constitutional principles,' reliance on the statute does not immunize the official's conduct". *Grossman* 33 F3d at 1209 *See also: Meyers v. Contra Costa County Dept. Soc Svcs* 812 F2d 1154, 1157, 1158 (9th Cir. 1987) and *Miller v Gammie* (No 01-1549, DC No CV-99-00275-HDM PHA, 9th CirCtApp. 2003)

8. Another usage of the wrong standard of law that needing addressed, is the "*best interests of the child*" standard in adversarial child abuse cases which invoke greater liberties and constitutional protections for familial association. "Best interests of the child" standard is erroneous in child abuse proceedings. Only when proceedings reach the permanency stage, specifically the disposition stage, does the balance of interests shift away from the custodial parent. *Matthews*

9. Much of *A.R.S. Title 8* is unconstitutional and in violation of overriding federal law; for brevity petitioner provided examples. Vague policies, statutes, laws, or the encouragement thereof that violate federal Child Welfare Funding Laws, constitutionally and federally-protected rights must be examined. Families have the right to be free from unbridled State intrusion into their private family life without afforded substantive and procedural due process of law. When a case of state custody is necessary, children and others in the custody of the state must be afforded the duty of care owed by the state and its agencies under the Fourteenth Amendment.

10. Federal laws of foster care and adoption, legislated by Congress with good intention, are routinely violated by the state. Rather than adhere to statutory preventative measures to provide assistance to *keep families together*, they many times remove children from their parents when less extreme measures should have been taken *violating federal statutory law* and the First, Fourth, and Fourteenth Amendments of the United States Constitution. Arizona ADES-DCYF-CPS often places children with abusive noncustodial parents or in abusive foster/shelter care. (State Created Danger)

11. State law and policies announced by Governor Napolitano encourage unlawful practices of use of these federal funds resulting in need for more monies as the number of children removed from their parents rise. Funds should be used to provide families assistance with food, shelter, furnishings, education, location to domestic vi-

olence shelters, state training of its agencies in recognizing common consequences of domestic violence on victims and their children, and other preventative measures to *stabilize the family and prevent removal*.

12. The most critical issue in The State is the additional *large expenditures of monies to hire additional caseworkers*, reportedly to handle the overflow of children, but the reality is that *additional caseworkers coupled with current “take the child and run” policies encourage improper practices, erroneous and non-explicit findings of abuse*, and has the beginnings of an enterprise whose practice is to break up the family. Hiring additional caseworkers creates more crisis and more child fatalities; more children are removed rather than focus on current cases; the state is not the parent and not able to provide the proper standard of care as is its duty, nor can it provide nurturing. If more monies need be spent, it should be appropriated to training current caseworkers in integrity and ethics characteristic to the social services Code of Ethics. Higher standards of care and duty to assist those in need are standards to which social workers should be held. It is time that the State of Arizona brings those ethics back into its ADES–DCYF Child Protection Services agency, perhaps with more experienced workers with families of their own who understand the value of the family.

13. AZDES CPS removes children on suspicion (substantive due process violations). Many children are then abused in state custody (six to ten times higher in state custody per NCCAA). Reasonable efforts must be made to preserve the First Amendment protection of familial association in Arizona. It is obvious that this petitioner, the Mays family, the Hill family, the Payne family and other families undisclosed to the public, the Governor’s office, the State of Arizona and its CPS agency, the Pima County Juvenile Court in the State of Arizona, the City of Tucson Police Department, and The People are aware that there are *serious Constitutional policy/procedural deficiencies regarding the safety, care, and protection of children and their families in the State of Arizona under current CPS policies and procedure s*.

14. The announced policy statement by Governor Napolitano coupled with the seemingly endless supply of federal monies encourages wrongful state intrusion into the lives of families in Arizona and violates constitutional and federally-protected rights and federal law.

15. *Pattern and Practice of State Created Danger*

\*Payne children, deceased 2007 (CPS—Domestic Violence)

\*Emily Mays, deceased August 2005, (CPS)

\*Dwight Hill, deceased November 2005, (CPS)

\*D.R.A., Abused, October–November 2005 (CPS)

\*Others unnamed to protect the families.

*The State-Created Danger Doctrine* See *Penilla v. City of Huntington Park*, 115 F.3d 707, 710 (9th Cir. 1997) “If affirmative conduct on the part of a state actor places a plaintiff in danger, and the officer acts in deliberate indifference to that plaintiff’s safety, a claim arises under § 1983.” *Second*, the official’s act did more than simply expose the plaintiff to a danger that already existed. See *L.W. v. Grubbs*, 974 F.2d 119, 121 (9th Cir. 1992); see also *Dwares v. City of New York*, 985 F.2d 94, 99 (2d Cir. 1993); *Freeman v. Ferguson*, 911 F.2d 52, 55 (8th Cir. 1990). *Finally*, the official acted with deliberate indifference to known or obvious dangers. See *L.W. v. Grubbs*, 92 F.3d 894, 900 (9th Cir. 1996) “The plaintiff must show that the state official participated in creating a dangerous condition, and acted with deliberate indifference to the known or obvious danger in subjecting the plaintiff to it.”

18 *U.S.C 4* Misprision of Felony—parents report abuse of their innocent children in CPS custody and judicial, state, county, and other actors, with deliberate indifference to the constitutional rights of families and their children to a duty of care in state proceedings and custody (Fourteenth Amendment), do not act to interfere or stop the abuse, and even retaliate on the reporting parent by termination of rights, terminating visitation, or relinquishing custody of the child to prevent further reports of abuse at the hands of state agency policies and procedures upon these children. This is appalling and an outrage.

16. Petitioner’s case parallels the Mays and Hill cases in the period of time of injuries, the nature of the injuries, and deliberate indifference of the court, CPS, state-appointed attorneys, GALs, and assistant attorney generals acting as counsel for ADES to step up to the plate to provide the owed duty of care to protect children in state custody from further harm (death in the Mays, Payne, and Hill, other cases). The Payne case, this petitioners, and others demonstrate the deliberate indifference of CPS and juvenile courts toward domestic violence victims and their children and the need for change of the improper standard of “best interests of the child” in child abuse cases to protect the greater liberty interests of the custodial

parent. It also demonstrates the complete unlawful disregard for “previous custody agreements”. *ARS 25-408(H)(I)*

17. This petitioner and other parents have contacted (2003–2007) Arizona Office of The Governor, Arizona House and Senate Members, and other public officials (State, City, AZBAR, AZ and Pima County Courts, and the like) who have the ability to make changes to inadequate or dangerous policy both before and after herein stated violations. They are all aware there is a problem with their own policies regarding the constitutional right of familial association and the Doctrine of State Created Danger and the duty of care afforded by the Fourteenth Amendment involving child protection and related policies.

*Instead of* positive changes to policies or even investigation into violations, policies were changed to further deny the Constitutional Right to due process and to strengthen policies that violate Constitutional rights in adversarial CPS cases.

18. Bill SB1430, initiated by Senator Johnson would have strengthened due process protections for First Amendment rights for CPS TPR cases, Arizona State Senate Committee on Family Services Minutes, dated February 13, 2006. Petitioner spoke at this Senate committee hearing. In June 2006 it was voted down due to *Napolitano’s threat of veto*. Napolitano has at the same time publicly stated that caseworkers are to “*err on the side of the child*”, affecting *increased removals and TPR and creating policy at CPS that violates due process to families* under the First and Fourteenth Amendments. “It seems like a lot of trouble for something that’s going to get vetoed.” Rep. Pete Hershberger, R–Tucson, said before the bill died on the House floor.

Napolitano’s threatened veto and changes to policy removed jury trials for CPS TPR cases is in violation of the 1st, 6th, 7th, and 14th Amendments guaranteeing the right to trial by jury and the *right of confrontation* in any criminal or government adversarial trial where the value in controversy exceeds 20 dollars (a child’s life and the right of familial association is invaluable).

The excuse was that “most jury trials resulted in TPR anyway”. This statement illustrates by admission the *lack of procedural and substantive due process in Arizona juvenile courts*, demonstrating the need for reform policies that implement the Constitutional Due Process of Law protections of the First, Fourth, Fifth, and Fourteenth Amendments of the United States Constitution, Arizona Constitution, Federal and Statutory law. *See: Cf. Lorillard Tobacco Co v. Reilly 533 U.S. 525, 540–41, 121 S.Ct. 2404, 2414 (2001)*

AZ State Representative Laura Knaperek, as well as child advocacy expert Richard Wexler, *spoke out strongly* condemning Governor Napolitano’s policy saying it will deeply hurt Arizona’s families, and it has.

19. The Governor’s policy implementation (threat of veto, lowered standards of proof, and removal of jury trials) is a deliberate and knowing error as ruled by the Arizona Supreme Court decision in *Kent K. and Sherry K. v. Bobby M. and Leeh M.* where the Court, applying *Matthews* and *Santosky*, held that, “The private interest affected is commanding; the risk of error from using a preponderance standard is substantial; and the countervailing governmental interest favoring that standard is comparatively slight. Because the preponderance of the evidence standard essentially allocates the risk of error equally between the parents and the state, due process requires a higher standard of proof than “preponderance of the evidence”.

20. This petitioner spoke at Governor Napolitano’s CPS Reform conference in 2003 on domestic violence and the need for CPS to protect Mothers and their children. The recent horrific cases of Tyler and Ariana Payne and another unnamed father who dated a CPS supervisor parallels this case and the problem of Domestic Violence and *CPS policies of separating Mother her child in favor of the noncustodial batterer, thus inflicting the sins of the batterer on the children*, as addressed in an injunction against NY Child Protection in *Nicholson et al v Scopetta et al and Williams et al* where the Court concluded:

“The City may not penalize a mother by separating her from her children; nor may children be separated from the mother, in effect visiting upon them the sins of their mother’s batterer” (In re Nicholson, 181 F supp 2d 182, 188 [ED NY Jan. 20, 2002], *Nicholson v Williams*, 203 F Supp 2d 153 [ED NY Mar 18, 2002] [108-pg elaboration grounds injunction]). The Court found that ACS unnecessarily, routinely charged mothers with neglect and removed their children where the mothers were the victims of domestic violence; that ACS did so *without ensuring that the mother had access to the services* she needed, *without a court order*, and *without returning these children promptly*; that ACS caseworkers and managers lacked adequate training about domestic violence, and *their practice was to separate mother and child* when less extreme measures should have been taken. The District court cited the testimony of a manager that it was *common practice in domestic violence cases* for ACS to wait a few days before going to court after removing the child because “after a

few days of the children being in foster care, the mother will agree to ACS's conditions without the matter even going to court" 203 F Supp 2d at 170.

*See also: Pathologizing the Victim*, a common tactic used in family court to applaud the actions of the abuser while labeling the victim unstable.

21. Common sense and civil law state that when government or agency policies are in violation of Constitutional Rights or of Federal Law or Federally protected rights, state and local governments and their agencies that *institute* or *encourage* policies are directly liable for wrongs and injuries that result. Governor Napolitano and the State of Arizona's policies and deliberate indifference has assumed responsibility for injuries instilled upon families such as those of my child and of Emily Mays and Dwight Hill (infants) and further cases such as the Payne case (involving prior domestic violence and CPS change of custody) which show the sufferings and irreparable injury of parents and their children as a result. Children are no safer in state custody than with parents, nor are they any safer with CPS involvement. Child abuse is an issue for the police, not a social agency.

22. The federal law on child abuse and neglect is found primarily in Title IV-B&E of the Social Security Act transfers monies from the Social Security Fund to The State. Approximately seventy-five percent of the funds in Arizona is *federal money* which is available only if the state meets eligibility requirements; these funds can be withdrawn if requirements are not met.

The history and sources of the Child Welfare funding are primarily found in: Federal Payments for Foster Care and Adoption Assistance *42 USC 670-679b*; the 1974 Walter Mondale Child Abuse Prevention and Treatment Act, *PL 93-247*, 88 Stat. 4, *42 USC 5101-5107*; and the Adoption Assistance and Child Welfare Act, *PL 96-272*, 94 Stat. 500, *42 USC 670-676* (and amending *620-628*); *42 USC 107(b), 5106a(b)(1)* Grants to States for child abuse and neglect prevention and treatment programs, as well as other sources such as the Interstate Compact on the Placement of Children (*ICPC*), a contract which provides financial incentives for interstate placement of foster children, reportedly to find permanence.

23. The State of Arizona is the governing body of AZDES-DCYF-CPS. The State collects Federal Funding, (*42 USC 670-679b*) (17 Trillion in 2004, U.S. total) from the United States Government in the form of Title IV (Parts B & E) funding, mandated to be *used primarily for prevention and reunification purposes* (*42 USC 671*). *Title 42 Chapter 67: Child Abuse Prevention and Treatment and Adoption Reform* also offers federal funding grants to CPS agencies through various eligibility programs such as fostering, adoptions, interstate placements, etc., as do other additional grants/receipts.

24. ADES receives federal funding through the state which then provides funding to domestic violence shelters and programs through its Community Services Administration (CSA) and collects information such as Name, Address, Age, Phone Number, Children's Names and Ages, Income, Disability Status, and other personal information. ADES maintains its own private database on Mothers and children who receive domestic violence services. Recent events in the Payne case as well as this petitioner and others show a pattern of disregard for Mothers and their children who are victims of domestic violence.

25. The Supreme Court of the State of Arizona has power to issue declaratory relief in the form of Arizona State Congressional investigation into state records of specific practices of this agency such as the use of federal funding to meet federal eligibility requirements regarding prevention, inconsistencies in individual case documentation, nonexplicit rubber-stamped judicial findings, paper-shuffling to meet federal statutory law, foster provider licensing, state-contractor conflict-of-interests (fishing expeditions to build a case through forced services to justify unlawful removals *post facto*), and for examination or positive enforcement of federal law that overrides state law matter of child welfare.

26. This petitioner prays this AZ Supreme Court will honor Declaratory Positive Relief to address the problems in the Child "Protection" Services of the State of Arizona, such as amending state statutes and state policy to properly comply with overriding federal funding contract law.

Dated this 17th day of May, 2007

Signed in ink for the court

Roma O. Amor, Appearing as herself

SUBMISSION OF TESTIMONY FOR THE RECORD

ABOLISH CPS. Let police handle it!

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT

CHILD WELFARE HEARING 5-15-07

Submitted for:

Roma O. Amor and Dante R. Amor (Rafe)  
All Arizona families and for those children that suffer.

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### Statement of Voice for Adoption

Voice for Adoption (VFA) is pleased to submit testimony to the Subcommittee on Income Security and Family Support on the challenges facing the child welfare system. We look forward to continuing to work with the Subcommittee as you examine ways to improve the outcomes for children and families involved with the child welfare system.

As everyone who is involved with the child welfare system knows, the system faces a wide range of challenges as it attempts to achieve safety, permanency, and well-being for all of the children it serves. One issue that I want to highlight for this committee is the growing need for high-quality post-adoption services as a way to ensure that adoption can truly provide the stability and permanence that vulnerable children need.

#### The Needs of Children in Foster Care

Children in foster care have experienced great traumas in their lives. Many of them struggle with physical and mental health problems, developmental delays, educational challenges, and psychological difficulties.<sup>1</sup> As a result of being in foster care, all of them have experienced loss and multiple transitions, which can make it more difficult for them to adjust to new family settings. Achieving permanence for these children is a critical goal, but permanence itself cannot ensure a child's well-being. Children and their adoptive families need additional support to help them heal and enable them to thrive.

One of the great resources available to the child welfare system is the large number of families that are dedicated to caring for children who have experienced abuse and neglect. These foster and adoptive parents face extraordinary challenges as they try to help their children heal from their past traumas and learn to manage their special needs. The child welfare system recognizes the need to provide services and support to foster families to help them meet their foster children's needs; foster parents can receive additional subsidies or financial assistance to pay for the child's food and clothing costs, respite care, special camps, child care, and other expenses involved in caring for the child.<sup>2</sup> For many prospective adoptive parents, they are considering adopting a child from foster care, a child who may receive, through the foster care system, medical, educational, mental health, and crisis intervention services to address their special needs. Many of these supports and services end as soon as a child is adopted. Prospective adoptive parents of children with special needs shouldn't be faced with the added challenge of deciding between making a child a permanent part of their family and ensuring that their child can continue to receive the services and support they need in order to overcome the challenges they experienced early in life.

#### The Role of Post-Adoption Services

Post-adoption services play a critical role in helping stabilize families that adopt children with special needs. Programs that provide post-adoption services have been shown to contribute to improved child functioning, improved parenting skills, prevention of adoption disruption and dissolution, and increased numbers of adoption.<sup>3</sup> Thanks in part to major investments in adoption promotion and recruitment activities over the past decade, nearly 400,000 children in foster care have been adopted.<sup>4</sup> This has created a growing need for adoption-competent services for the families that have adopted children with histories of abuse and neglect. Unfortunately, the intense efforts and investments that have contributed to this dramatic increase in the number of adoptions have not been matched by a corresponding commitment to

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<sup>1</sup>Casey Family Services, The Casey Center for Effective Child Welfare Practice. (2002) *Strengthening Families and Communities: An Approach to Post-Adoption Services—A White Paper*.

<sup>2</sup>U.S. Government Accountability Office. (2005) *Better Data and Evaluation Could Improve Processes and Programs for Adopting Children with Special Needs*.

<sup>3</sup>U.S. Department of Health and Human Services. (2005). *Post-Legal Adoption Services for Children with Special Needs and Their Families: Challenges and Lessons Learned*.

<sup>4</sup>U.S. Department of Health and Human Services. *Adoption and Foster Care Analysis and Reporting System: Trends in Adoption and Foster Care and Adoptions of Children with Public Child Welfare Agency Involvement By State FY 1995–FY 2005*.

providing support for the families that have responded to the calls to adopt children in foster care.

A paper from the Casey Family Services' Center for Effective Child Welfare Practice provides a succinct description of critical role that post-adoption services play in achieving permanence for waiting children: "The growing population of special needs children in foster care who are waiting to be adopted highlights the critical need to recruit, prepare and then support a larger number of adoptive families. We have found that the recruitment of prospective adoptive parents and the provision of post-adoption services and supports are integrally related. As the population of children in foster care waiting to be adopted has grown and become more complex, ever-increasing numbers of adoptive families who can meet these special needs must be recruited, an effort that is likely to be negatively affected if post-adoption services and supports are lacking or do not continue once a child is adopted from foster care. Assurance of the availability of services and supports following adoption has been found to play a critical role in many prospective adoptive parents' decisions to go forward with the adoption of children in foster care—whether children are adopted by their current foster families or new families recruited for them."<sup>5</sup>

Child welfare professionals and adoption advocates have long acknowledged that adoption saves the government money compared to the costs of keeping a child in foster care. Based on new research from 2006, we have strong confirmation of the range of cost-savings that adoption offers.<sup>6</sup> With an estimated annual savings to government of \$1 billion, there is a highly compelling government interest in moving children out of long-term foster care into adoptive families. Providing permanent families for waiting children not only brings better outcomes for children; it is a sound way of saving money. These savings are realized in the short-term, with the federal and state governments seeing a reduction in administrative costs for each child that moves out of foster care and into adoption. The financial benefits to government of moving children out of foster care and into adoption depend on those adoptions remaining intact, however. Post-adoption services play a key role in keeping adoptive families together and healthy, which helps keep children from re-entering the foster care system.

Despite the strong evidence of the importance of post-adoption services in recruiting and sustaining adoptive families, states struggle to provide the services and support that adoptive families need. One of the most significant challenges that the child welfare system faces as it seeks to support adoptive families is the structure of funding sources that can be used to pay for post-adoption services. Even when funding is available for states to provide post-adoption services, states still face the challenge of patching together disconnected funding streams that have varying eligibility criteria and allowable activities. The primary federal funding streams available for post-adoption services are Titles IV-E and IV-B of the Social Security Act, Adoption Incentive program payments, and discretionary grants through the Adoption Opportunities program. Despite the existence of multiple funding streams that can pay for post-adoption services, none of these programs provide dedicated post-adoption funding; states are forced to choose between using the money to fund post-adoption services or other critical social service needs. For example, the Promoting Safe and Stable Families program (Title IV-B, subpart 2 of the Social Security Act) provides for 20 percent of each state's program funding to be directed toward "adoption promotion and support" activities. Even with this funding category being dedicated to the area of adoption, states still must choose whether to direct the money toward adoptive parent recruitment and other adoption promotion activities or toward post-adoption support. With the Adoption Incentive program rewarding states for increasing their number of adoptions, but no consideration of the stability of those placements, there is a strong financial incentive for states to invest in recruitment instead of post-adoption services. Even within the Adoption Opportunities program—a program designed to focus specifically to promote and support special needs adoption—the grants in recent years have been diverted away from core program activities. The program used to focus on three main areas: recruitment of families for minority children in foster care; post-adoption services; and field initiative grants. Recent grant categories have directed funding instead toward marriage education and non-resident fathers initiatives.

The reality of the current state of post-adoption services is that they are provided by disparate agencies and government entities, with varying eligibility require-

<sup>5</sup> Casey Family Services, The Casey Center for Effective Child Welfare Practice. (2002) *Strengthening Families and Communities: An Approach to Post-Adoption Services—A White Paper*.

<sup>6</sup> Barth, R., Lee, C., Wildfire, J., & Guo, S. (2006). "A comparison of the governmental costs of long-term foster care and adoption." *Social Service Review*, 80(1). 127–15.

ments, limited and fragmented access, and inconsistencies in the adoption competency of the service providers. A report from U.S. Department of Health and Human Services describes the fragmented status of post-adoption services around the country: "Although the field has proposed an optimal continuum of care for adoptive families, the provision of post-adoption services can best be described as patchy rather than comprehensive. Services offered range from information and referral networks to support for residential treatment. Yet there is little uniformity in provision of services across, and sometimes within, states."<sup>7</sup> This lack of uniformity creates great inequalities in the amount of support that adoptive families receive depending on which state or county a family resides.

### **Conclusion**

The child welfare system faces great challenges in achieving its goals of safety, permanence, and well-being for children. Although we have seen great progress in the number of children in foster care who have achieved permanence through adoption in the past decade, the families who provide this permanence experience extraordinary challenges trying to provide true stability for their children. A dedication to providing permanence for vulnerable of children requires acknowledging that the work does not end once a child's adoption is finalized; true permanence requires a strong commitment to both achieving permanence for children and sustaining permanent families so that they can experience stability, security, and well-being. In order for a child to truly experience the benefits of permanency, the family must have the support it needs to manage the challenges the come from raising a child with special needs. Without dedicated funding for post-adoption services, states will continue to struggle to patch together disconnected funding streams with wide variations in the availability of services across the country.



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<sup>7</sup>U.S. Department of Health and Human Services. (2002) *Assessing the Field of Post-Adoption Services: Family Needs, Program Models, and Evaluation Issues*.