

DEPARTMENT OF HEALTH & HUMAN SERVICES



TESTIMONY

OF

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**

BEFORE

**COMMITTEE ON LABOR AND HUMAN RESOURCES
UNITED STATES SENATE**

NOVEMBER 20, 1996

Senator DeWine, Members of the Committee,

I am pleased to appear before the Committee today to discuss the very important issue of assuring the safety and well being of children who have been abused or neglected. Perhaps no issue is more important to the future of our country than assuring that children -- all children -- grow up in families where they are safe, healthy, nurtured and loved.

I commend you for holding today's hearing and for the commitment and determination with which you have pursued the safety of our children. Many of us share your concerns about the ability of our often overburdened child welfare programs to protect the safety and well-being of our nation's most vulnerable children. This Administration, in close consultation with state and community leaders, has taken numerous steps to strengthen these systems over the past several years as we have strived to ensure that:

- Every decision made is in the child's best interest;
and
- The focus of child welfare services is on securing a safe and permanent home environment for the child.

Much remains to be accomplished, however, and we hope to work

with you and your colleagues in the 105th Congress to take further steps to better protect the safety of our nation's most vulnerable children.

An Overview of the Children in the Child Welfare System

Child abuse and neglect is a tragedy of growing proportions. The States report that in 1994 investigations by child protective services (CPS) agencies confirmed that over 1 million children were victims of neglect or abuse, an increase of 27 percent over the number of children who were found to be victims in 1990. Nearly half of the children abused or neglected were 6 years old or younger, while more than a quarter were 3 years old or younger. In recent years, the number of children in foster care has also increased to more than 450,000 children. And, although approximately 20,000 foster care children are adopted each year, the number has failed to keep pace with the increasing need.

Furthermore, there is evidence that the number of abused and neglected children may be even higher than what is reported through official CPS statistics. A study released by the Department of Health and Human Services in September estimated that the total number of abused and neglected children (including children who were not investigated by CPS agencies) grew from 1.4 million in 1986 to over 2.8 million in 1993. During the same period, the study estimated that the number of children who were

seriously injured quadrupled from about 143,000 to nearly 570,000.

While there is no one single effective response to child abuse and neglect, ensuring the subsequent safety of these children must be our priority. To do so requires a continuum of effective services, including:

- Community-based prevention and family resource programs that support adults in their roles as parents and that help resolve problems before they can lead to children being abused or neglected;
- Foster care services that provide a temporary safe home for children, as well as services to their families, while parents work to resolve crises in their lives and agencies and the courts decide whether the parents can care for their children safely;
- Adoption and guardianship opportunities for children for whom reunification is not possible and/or whose parents' rights to custody have been terminated and who need permanent homes to begin again to establish strong family bonds; and
- Family preservation services for families that have

problems, but that can be safely strengthened and kept together or reunified through the provision of sometimes intensive, but time-limited services.

It must be emphasized again that while a continuum of services is needed to meet the varying needs of children and families, not every family can be preserved. In our implementation of the Family Preservation and Family Support program, for which final regulations have just been issued, we have emphasized that these services are clearly not appropriate when children cannot be safe in their own homes. For these children alternative paths to permanency must be found.

Responding to the Needs of Children and Families

There is a growing consensus that to reform the child welfare system we need to:

- Promote community-based prevention and early intervention efforts;
- Increase the focus on permanence and timely decision-making; and
- Ensure real accountability by focusing on the goals of safety, permanence and well-being.

In the past several years we have made significant strides in each of these areas.

Community-Based Prevention and Early Intervention

The Clinton Administration has made significant progress in developing community-based networks of support for families. We are working to bring whole communities together to support children and families. In our implementation of the Family Preservation and Family Support Program, for example, we have encouraged States to bring to the table community leaders, professionals from the many different agencies that support families, and families themselves, in order to plan support services that prevent child abuse, strengthen families, and prevent family crisis. At the same time, we have combined planning requirements and simplified paperwork for States, so they can really concentrate on solving child abuse and neglect.

Today, every State in the country is developing or expanding services to assist families before problems become severe. They are making these services accessible by providing them in neighborhoods and communities where families live. Furthermore, by developing community-based strategies they are ensuring that

the whole community shares in the responsibility for keeping children safe.

The Family Preservation and Support Program fosters preventive services that can help keep children from ever suffering abuse or neglect. In addition, by expanding services under the program, States are better able to make reasonable efforts to prevent the unnecessary removal of children and to enable children to safely return home from placement when possible. However, it is important to note that the Federal law regarding reasonable efforts does not require States to provide family preservation or family reunification services for all children.

Permanency and Timely Decision-Making

Every child needs a permanent, loving home. For children who are constantly developing both physically and emotionally, every day and every month count. For that reason, when a child must be removed from his own home because of abuse or neglect, it is critical that at every point decisions about the child's future be made promptly and in a way that helps the child move towards a safe, nurturing, permanent home.

The courts, working in conjunction with State child welfare agencies, play a critical role in decision-making for abused and neglected children. Through the State Court Improvement Program,

authorized along with the Family Preservation and Family Support Program, State courts are receiving \$10 million annually to work with State agencies and others to assess existing laws, policies and practices and identify areas in need of reform. The goal of this work is to establish an agenda for improving the quality and timeliness of decisions regarding the placement of children, termination of parental rights and other decisions that greatly affect children's safety and permanency. Most States have completed their assessments and are now moving forward to implement needed changes. To support this work, we have brought together foster care and adoption managers with court personnel in order to develop strategies to improve permanency for children.

In addition, the recent reauthorization of the Child Abuse Prevention and Treatment Act (CAPTA) helps make the connection between child abuse and neglect intervention and permanency. The law adds new provisions that require States to certify that:

- They do not require the reunification of surviving children with a parent who has been convicted of a felony assault on a child or the murder or voluntary manslaughter of another child in the family; and
- They have laws making a conviction for any of the above-mentioned crimes grounds for terminating parental rights.

The CAPTA reauthorization bill also requires that States provide for expedited termination of parental rights for abandoned infants. We thank this committee for its leadership in sponsoring the reauthorization of CAPTA with its important emphasis on child abuse prevention and intervention. We will be working with the States to implement the new provisions expeditiously.

Another area in which we have been working to ensure permanency is adoption. As you know, the President signed into law the Small Business Job Protection Act of 1996 which provides a tax credit to families adopting children, as well as the Family and Medical Leave Act, which allows parents to take time off upon the adoption of a child.

We are also working with States to ensure that they make full and effective use of the Adoption Assistance program, which provides critical economic support to families who adopt children with special needs. This program promotes adoption of children who often wait longer to find homes and whose disabilities or other needs cause them to require large medical or other expenses. Since the beginning of the Clinton Administration, the number of children for whom Federal adoption subsidies are provided has increased by 60 percent.

Through discretionary grants we have supported the development of successful models for recruiting adoptive families, providing post-legal adoption services and supporting parent groups. Several grantees are focusing attention on the development of expedited methods to provide permanent living arrangements for children through voluntary relinquishment of parental rights and family mediation strategies that help to find homes for children within their extended families.

We have been working with States to ensure full implementation of the inter-ethnic adoption provisions adopted by this committee. These provisions seek to decrease the length of time that children wait to be adopted by preventing discrimination in the placement of children on the basis of race, color, or national origin; and by increasing the identification and recruitment of foster and adoptive parents who can meet the children's needs.

Finally, for some children for whom adoption may not be an appropriate or available service, we are exploring other means to permanency, such as assisted guardianship efforts being piloted in several States. This arrangement allows a child unlikely to be adopted to remain in a legally sanctioned relationship with relatives or foster parents.

Focusing on Safety, Permanence and Well-Being

Underlying all our work in child welfare is a significant focus on the outcomes of child welfare services. It is critical that attention be focused on what really happens to children, not only on whether public agencies adhered to procedures and completed paperwork. We have been consulting with States and other experts in the field to revise our approach to reviewing state child welfare programs to reflect this focus on results. Through our innovative monitoring strategy, we are working with States to improve their performance in keeping children safe, securing permanent families and promoting children's development. By combining a meaningful monitoring process with the provision of focused technical assistance, there is great potential to improve the operation of child welfare services.

We are also working to ensure that at both the State and the national levels we have the infrastructure needed to support a focus on results. Through the Statewide Automated Child Welfare Information System (SACWIS) initiative, we are providing much needed leadership and financial support to encourage the development of modern, integrated systems that can both provide data needed to track outcomes for children and support frontline workers. At the national level we are moving forward in the implementation of the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and

Neglect Data System (NCANDS). These efforts already are yielding more extensive and reliable data on children in the child welfare system than we have ever had in the past.

Conclusion

There is much work to be done to improve the well-being of children. By continuing to work together I believe that we can build on the important work we have begun and move forward to ensure the well-being of America's most vulnerable children.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES



SPECIAL INFORMATION

FOR IMMEDIATE RELEASE TO STAFF AND POSTING ON EMPLOYEE BULLETIN BOARDS

To: All Staff
 Each CFPN Director
 Each IUC Dean
 Each IUC Center Director
 IUC Director

October 14, 1996

March 12, 1996

(Reissue of New Year's Day, 1996

May Day, 1995

November 1, 1994

September 1, 1994

September 1, 1993

New Year's Day, 1993)

OUR TOP PRIORITY IS CHILD SAFETY

As we implement the final Phases of our family preservation and family reunification resources (we now have 23 programs -- see Attachment A), I want to stress that child safety continues to be our **top** priority. Family preservation or reunification services should be seen as means to eliminate risk to children and increase the safety of children in their own homes. Use of family preservation or family reunification services should always be governed by an overriding concern for child protection and child safety.

Implementation into practice of the policies contained in this Special Information Bulletin is so critical to our top priority of child safety that I am requiring that all managers review and be familiar with its content. I am also requiring that all managers train all their staff at all times as to the content and practice issues presented. In addition, all CFPN Program Managers should review these policies in detail with their staff, member network agencies, Community Advisory Councils and any others who may contribute to the protection and well-being of our children. This is also the top priority for all our IUC and other training.

The situation for children in Los Angeles is becoming more dangerous and will continue to do so because (see Attachments B and C):

- economic despair and stress are widespread;
- the number of drug-exposed babies is large and continues to grow;

- abuse/neglect reporting has increased vastly, especially dangerous physical and sexual abuse;
- welfare reform is drastically altering the economic and health care support of many families. Many more children are ineligible for SSI, food stamps, and welfare, and many families are being confronted with grave stress and destitution.

This situation requires extraordinary caution and attention to child protection and child safety. Key procedures in being cautious and attentive include:

1. Child visitation (full compliance with all children) (citation: CSWH #GR 93-02, Visitation and Contact Requirements). Please conduct visits in homes and at times without advance notice as appropriate. Pay special attention to FM and reunified cases. Please be attentive as to whether or not relative caretakers are fulfilling all obligations to protect the child. As necessary, please visit relatives in home and without advance notice until you are confident that they will fulfill all obligations to protect the children;
2. CHDP periodic exams and concerted follow-up care (citation: CSWH #HCI 93-07, Health Care Services for DCS-Supervised Children);
3. Making sure that there is a finding for each allegation (CIS 100) (citations: CSWH #ER 92-02, Completing the Initial Contacts on New Cases; CSWH #CP 93-01, Initial Case Plan; and, FYI #92-08, Revision of the CIS 100, Emergency Response Referral);
4. Timely ER response (citation: CSWH #CAP 1, Response Times). Please be ever vigilant to vital collateral contacts;
5. DRA approval, as delegated by Paul Freedlund and the Regional Administrators, of returns of children under the age of five years (i.e., 0-59 months), per procedures (citations: CSWH #CP 93-01, Initial Case Plan; CSWH #CP 93-02, Case Plan Update; CSWH #IN 93-03, Taking Children into Temporary Custody; and, FYI #95-83 [Rev. 2/96], Enhanced Protection for Children Under the Age of Five Years);
6. All background checks, including CII, CIS/WCMIS, JAI, CAI, per procedures (citations: CSWH #Court 93-06, Clearances: CII, JAI, CAI and CIS/WCMIS; CSWH #Placement 92-02, DCS Certified License Pending Home; CSWH #Placement 92-03, Out-of-Home Placement with Relatives; and, CSWH #ER 92-02, Completing the Initial Contacts on New Cases). Include background checks on persons who may not live in the home but assume caregiver/

- babysitting roles, such as girlfriends/boyfriends and non-custodial parents. Remember that all background checks must be completed for reunification or extended visitation, as well as at ER, if not previously completed within the six-month time frame authorized by policy. Make sure you understand and document the significance and meaning of the findings of the background checks, including a detailed analysis in all case plans and court reports;
7. Relative home studies and background checks (citation: CSWH #Placement 92-03, Out-of-Home Placement with Relatives). Include background checks on persons who may not live in the home but assume caregiver/babysitting roles, such as girlfriends/boyfriends and non-custodial fathers (citations: CSWH #Court 93-06, Clearances: CII, JAI, CAI and CIS/WCMIS; and, Special Information Bulletin entitled Child Abuse Index [CAI]: Clearances for Relative Placements, dated March 12, 1996). Make sure you check the garage and all areas of the home and property for safety (citation: FYI #95-81 [Rev. 2/96], Additional Requirements for Relative Placements);
 8. Use of the DCFS 550, Body Chart, per procedures. Get medical help in physical abuse assessments, as required. Follow our procedures regarding diagnostic imaging. Often, old broken bones and injuries are hidden. Use our nurses in each office fully to obtain needed professional opinion, resources, and technical assistance (citations: CSWH #ER 92-02, Completing the Initial Contacts on New Cases; CSWH #HCI 93-08, Public Health Nursing Component of the Protective Services Child Health System; and, FYI #96-29 [Rev. 2/8/96], Diagnostic Imaging: A Requirement of the Medical Examination for Physical Abuse & Severe Neglect Cases);
 9. Limiting the number of kids in foster home placement locations to six, unless the RA approves an exception (citations: #AD 92-10, Capacity in Relative or Foster Family Home Placements; and, CSWH #92-03, Out-of-Home Placement with Relatives);
 10. Use of VIP and ensuring that all homes are within licensed capacity and properly licensed for the type of child(ren) placed (citations: FYI #93-23, VIP Plan to Verify Population and Capacity in Foster Homes - Vacancy Information Placement [VIP]); and, FYI #96-17, Technical Assistant Expanded Responsibilities);
 11. Supervision of medically/technologically complex kids by our Medical Placement Unit (citations: CSWH #HCI 92-01, Medical Placement Unit Intake and Assessment Criteria;

and, FYI #95-47, Medically Fragile Children), or a placement plan approved by Amaryllis Watkins only;

12. Risk assessments (citations: CSWH #ER 92-02, Completing the Initial Contacts on New Cases; and CSWH #CP 93-01, Initial Case Plan). Use medical and psychological consultants to help you sort out complicated issues. Keep a close eye on stress related to pregnancy and custody fights;
13. Use of County Counsel to appeal adverse decisions when children are endangered (citation: CSWH #Court 91-01, Adverse Decisions by the Court. Note: This CSWH will soon be cancelled and replaced by CSWH #Court 95-03, Adverse Court Orders/Decisions). In this regard, court officers have a very central role to perform in assuring that all "Safety Czar" procedures are adhered to (citation: Peter Digre memos to Management Forum dated 10/24/95 and 10/26/95);
14. Careful use of the disrobing protocols (citation: CSWH #SD 95-01, Disrobing Children);
15. Full use of new in-home services, such as child care and family preservation. THESE SERVICES SHOULD BE USED VERY EXTENSIVELY WHENEVER YOU HAVE CONCERNS ABOUT CHILD SAFETY. THEY SHOULD ALMOST ALWAYS BE USED FOR REUNIFICATION. ALSO BE LIBERAL WHEN 1) SETTING LEVELS OF SERVICES AND 2) AUTHORIZING SERVICE EXTENSIONS. ERR ON THE SIDE OF TOO MUCH SERVICE!!! **ALSO**, BE CAUTIOUS TO NOT RETURN CHILDREN HOME FASTER AND IN GREATER NUMBERS THAN PARENTS CAN MANAGE. REMEMBER THAT INFANTS AND TODDLERS CREATE SPECIAL STRESSES. ALSO, PREGNANCY OR CUSTODY BATTLES CAN BE A TIME OF EXCEPTIONAL STRESS. (citations: CSWH #92-03 [Revised], Protective Services Child Care; CSWH #SP 93-02, The Family Preservation Program). Also, remember that DRA signatures are required when returning children age 0-59 months home or allowing them to remain in their home (citation: FYI #95-83 [Rev. 2/96], Enhanced Protection for Children Under the Age of Five Years);
16. Make sure all kids in placement have a Medi-Cal card at all times (citation: FYI #92-33, Medi-Cal Card Issuance). SDHS will now do immediate HMO disenrollment (citations: FYI #95-82, Immediate HMO Disenrollment; FYI #96-17, Technical Assistant Expanded Responsibility; and, Memo from Peter Digre to All Staff, Dated 12/21/95, Regarding HMO Disenrollment);
17. In general, be very cautious about use of VFM in recent sexual or physical abuse cases. You will usually need the support of a court order (citations: CSWH #CP 93-

01, Initial Case Plan; CSWH #CP 93-02, Case Plan Update);

18. IF A FAMILY DISAPPEARS OR MOVES AND YOU CANNOT FIND THEM; GET A PROTECTIVE CUSTODY WARRANT IMMEDIATELY AND DO A DUE DILIGENCE TO FIND THEM (citations: Dependency Handbook, Sections 36675-36680.4; Children's Services Handbook, Sections 5500-5570); and,
19. SCSWs should hold at least semi-monthly professional case conferences with all CSWs to deal with safety, permanency and other professional case issues. RAs/DRAs should conduct at least monthly professional discussions with all staff regarding safety, permanency and other professional issues.

Additionally, I would like you to consider the following casework issues as you provide services to our families:

The first issue is that of other adults who live in or are in and out of the home, OR WHO LIVE OUT OF THE HOME BUT FUNCTION AS CAREGIVERS/BABYSITTERS (this includes such persons as non-custodial parents, boyfriends, girlfriends and other significant others who may have contact with the child). These relationships may be of short duration, and the children may be seen as "in the way." This may lead to impatience and anger on the part of a live-in or visiting adult. Keep in mind also that children's behavior, especially those under age six, will become more clinging and demanding of the parent's attention when a stranger moves into the family. Consequently, a dynamic may be set up where the other adult and the child may become competitors for the parent's attention and affection. This can be a dangerous situation in that the child may become a target of the rage.

Understanding the sociopathic personality is the second critical protective and child welfare issue addressed here. Keep in mind that what is said concerning sociopathic behavior can apply to parents, stepparents, other live-in adults or caregivers. Do not look for any obvious signs of neurosis or psychosis in sociopaths. They may, in fact, come across as charming and even have a disarming attitude of over-protectiveness and cooperation. This behavior is exhibited to mislead the Children's Social Worker, who may also become the object of charm and superficial civility. Not being aware that this extreme cooperativeness may be a cover for abusive behavior has led to tragedy in some instances. Sociopaths will go to extremes to hide abuse of their children, so diligence is required. They will tell workers anything that they think the workers want to hear, and will appear to be "making progress." You may find yourself proud of the power of your services to change lives, while the abuse continues.

What are the practice implications for these two situations?
When either condition is present, always consider their impact

before deciding that the home is safe for continued placement or for reunification of the child. In the case of suspected sociopathic behavior, check the history very thoroughly. (Sociopaths may use different hospitals in order to cover their tracks.) Get professional diagnostic support from clinicians. Check medical records. Have the child medically examined in reports of physical or sexual abuse. Look for patterns of inconsistencies in attachment, bonding and affect. Be skeptical of problems that are too readily resolved. Demand a thorough and complete explanation for all injuries to the child. Get diagnostic imaging to check for old injuries. While an accurate history is critical in identifying this personality, keep in mind that sociopaths have probably fooled others before you, so look closely at unfounded reports, a pattern of "accidents" and "sibling" or "self-inflicted" injuries. Never accept the excuse that the baby is sleeping or otherwise unavailable so you can't see him/her -- SEE AND EXAMINE THE CHILD! Make sure you see every child every time you visit.

Interviewing the sociopath becomes extremely important to the future safety of the children. If the relationship between adult and child is exploitive, then count on the interview being exploitive. Sociopaths will avoid accountability and responsibility at all costs. Expect them to reduce any stress or tension on themselves by directing the interview elsewhere. Therefore, the interview can be distorted, if not misleading, because the sociopathic client may be quite adept at pointing you in the wrong direction. The interviewer must be confrontive and challenging and the questions must be precise, direct and to-the-point. You may find many people around the sociopath supporting his/her version of the facts, because they are either charmed or part of a sociopathic network.

All staff should be aware that, when confronted, sociopaths often respond with narcissistic rage. They can become violent, not so much because they have hurt a child and have been caught, but because their own sense of self-importance has been injured. The humiliation of continuing to be considered a perpetrator despite their tactics causes intense hostility that can erupt into rage. Keep this in mind at unsupervised visits and in home and field interviews. Court orders are often useful against these perpetrators, as they respect or fear the power of the court to intrude into their lives.

Many of our families have serious and deep life patterns of violence and addiction. Compliance with a case plan may or may not indicate that these long-term patterns have been altered. Careful analysis and cautious professional judgment is always needed to ensure that the risk factors are eliminated.

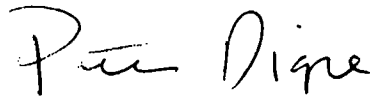
Finally, PLEASE BE CAREFUL TO ANALYZE THE SIGNIFICANCE OF PREGNANCY OR THE STRESS OF CUSTODY BATTLES IN YOUR ASSESSMENT. Pregnancy and custody fights may be times of great physical, familial and/or economic stress which may lead to behavioral

changes. This analysis should always be a factor for consideration in risk assessment and family preservation and family reunification planning. Beware of too rapid reunification planning during pregnancy. Small children and pregnancy are a stressful mix to all of us!!! Custody battles are a nightmare to many parents.

In short, the following principles shall underlie decision-making and case activity:

- follow all child safety procedures;
- our first concern is always protection of the child;
- be extra vigilant always, especially when other live-in or non-live-in caregiver/babysitter adults are present;
- recognize that those who charm you with their progress may require careful analysis;
- hope for progress must be balanced with analysis backed up with facts;
- compliance with the case plan must be analyzed with cautious professional judgment to make sure risk factors are eliminated;
- examine the children. Do not be put off by excuses that they are sleeping or otherwise unavailable;
- evaluate the impact of pregnancy or a custody battle as an added stress on the family; and,
- increased economic stress is increasing abuse and neglect and the severity of abuse and neglect.

I firmly believe that we can enhance our ability to protect children by following the guidelines discussed in this Bulletin. By combining basic child protection steps with casework skills, we will be able to increase the safety of children in our County.

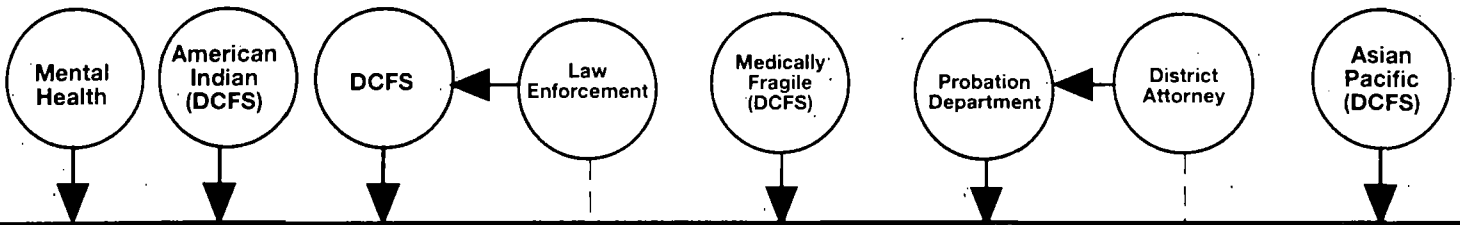


PETER DIGRE, DIRECTOR

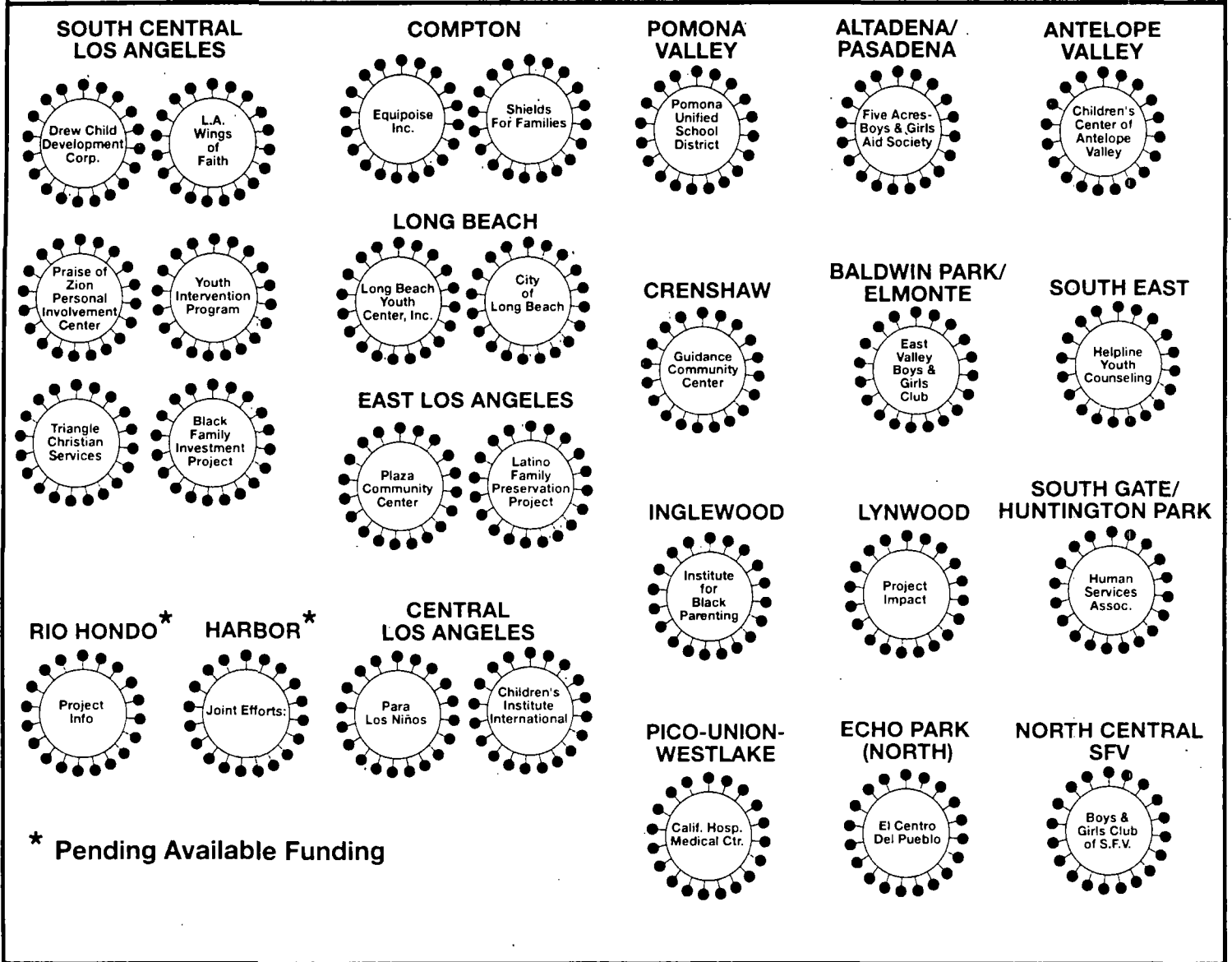
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COMMUNITY FAMILY PRESERVATION NETWORKS

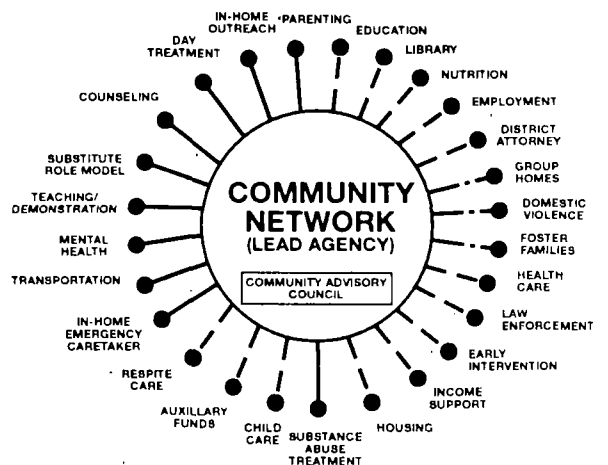
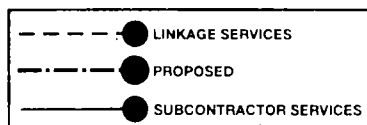


LEAD AGENCIES / NETWORKS

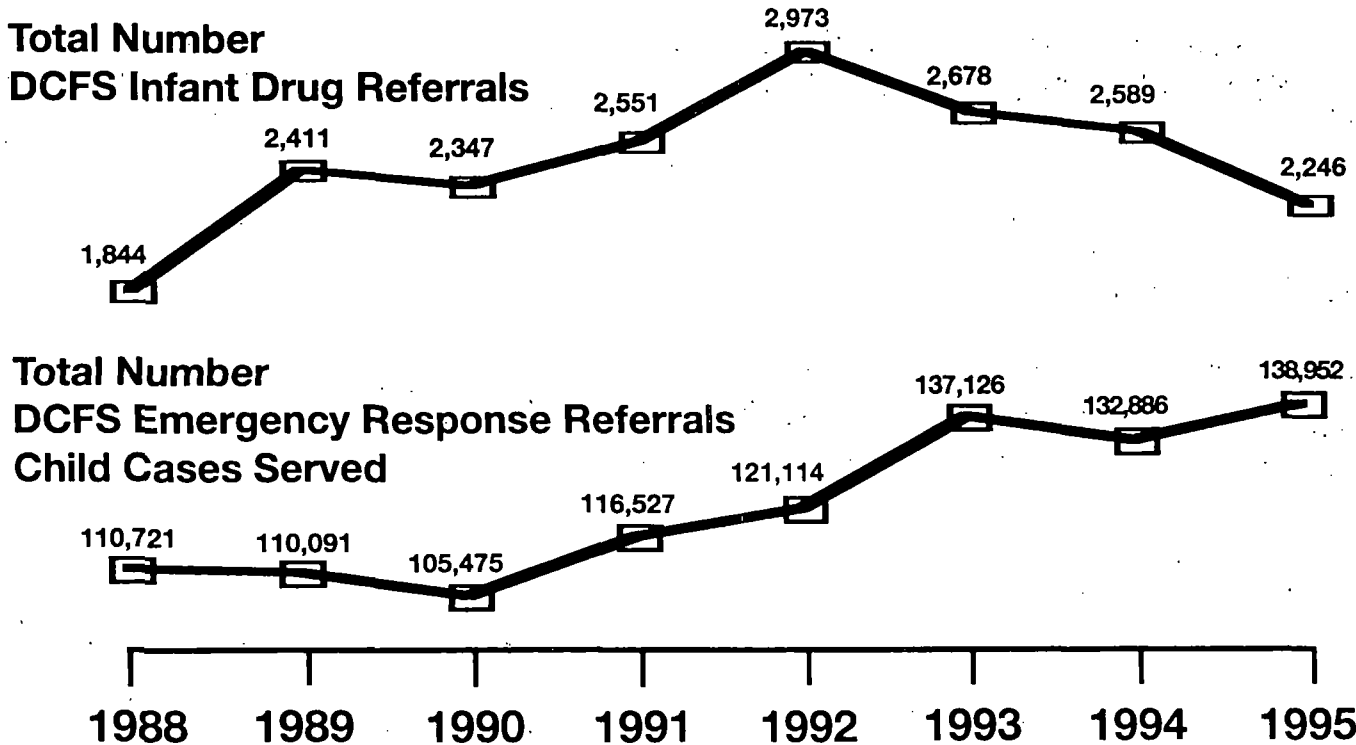
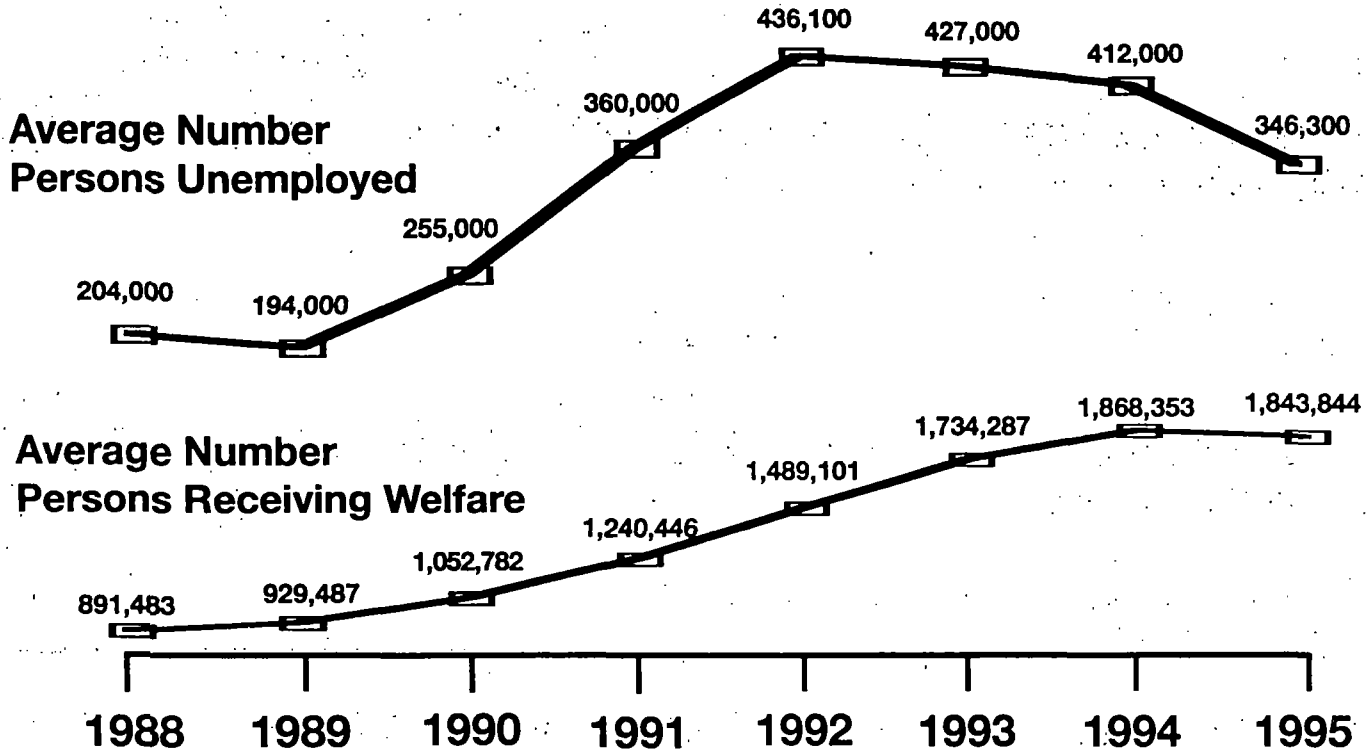


* Pending Available Funding

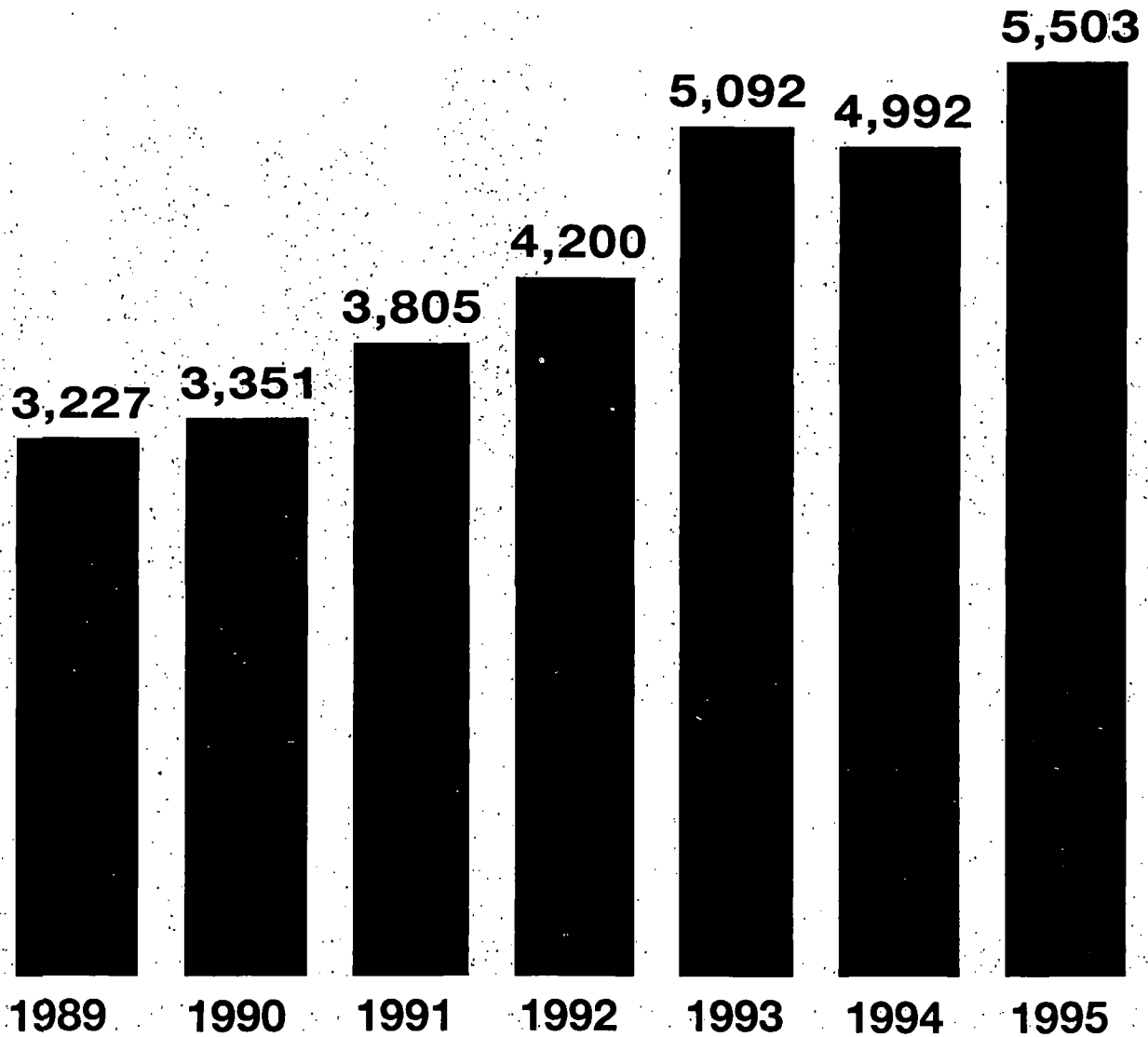
COMMUNITY NETWORK MODEL (Services Provided)



Unemployment, Welfare, Infant Drug Referrals, Emergency Response Child Cases and Child Placement for Los Angeles County



**Average Monthly Emergency Response Services
for Physical Abuse
In The County of Los Angeles**



**Statistics Provided By the County of Los Angeles
Department of Children and Family Services**

DEPARTMENT OF CHILDREN AND FAMILY SERVICES



SPECIAL INFORMATION

FOR IMMEDIATE RELEASE TO STAFF AND POSTING ON EMPLOYEE BULLETIN BOARDS

TO: All Staff

August 1, 1996

(Reissue of Labor Day 1995

April 23, 1996)

**OUR FIRST PRIORITY IS SAFETY
AND
OUR PRIMARY MISSION IS LEGAL PERMANENCY**

Achieving legal lifetime permanency for children is the primary mission of DCFS in any interaction with children and families. Our first concern remains the safety of children. No action should ever be taken which puts a child at jeopardy. However, legal permanency is an essential component of developmental, psychological and economic safety for children. No child can ever feel truly safe and secure when he or she can be taken from a placement at any time with little warning. This feeling of insecurity is deeply detrimental to a child's development and may have lifelong consequences.

The increasing numbers of children entering the child welfare system nation-wide who remain in foster care until adulthood have created serious community concern. Our Department shares this concern and has renewed its efforts to increase the incidence of legal permanency and refocus our attention on the importance of achieving legal permanency for our children, as soon as the law permits.

Legal permanency is achieved when a child is safely reunified with his/her parents or, when reunification is not possible, the legal relationship of adoption has been established. The child should be assured that no governmental agency, including DCFS, can intervene to remove him or her from home without legally sustainable allegations of abuse or neglect. Similarly, the parent should not be able to divest him or herself of responsibility to the child at will. While it is clearly true that some biological parents abandon their children and some adoptions are rescinded, the intention of a legally permanent family is to live permanently as a family. ¹The hallmarks of permanency are the parents' legal and personal responsibility for the child, an intent on the part of the parents and family to make

¹ Our statistics indicate that the number of finalized adoptive placements that disrupt is significantly lower than the disruption rate for legal guardianship situations. "Statewide in the last two years there was an average of only 14 total setaside petitions (which are filed to legally nullify a finalized adoption) versus a statewide rate of 8% (or 1 out of every 12) for guardianship disruptions." SOURCE: CDSS and CWDA 1994 Permanent Placement Caseload Survey. "In terms of stability of foster placements, a 1994 survey by CWDA found that statewide 9.4% of PP children had 6 or more placements during their current stay in the system with 76.7% of the PP children having between 1 and 3 placements. The same survey showed that 23.3% of the PP children statewide had spent over 5 years in placement. Another 22.3% PP youth had been in placement 3 to 5 years." SOURCE: CWDA 1994 Permanent Placement Caseload Survey.

a lifelong commitment to the child, and the family's autonomy from interference from outside governmental agencies. The ultimate goal is for children to have stable nurturing families on which they can rely throughout their lives.

The value of permanency lasts a lifetime. Unlike legal guardianship or long-term foster care, a permanent family has a lifelong responsibility to a child. A permanent family also provides a sense of personal and social identity. Permanent families provide economic, psychological and emotional support and security long after the child reaches the age of 18. A permanent family is where one can go in times of crisis as well as times of joy. A permanent family maintains ongoing concern for a child and an emotional connection with that child throughout all major life events. In other words, a permanent family meets Robert Frost's definition of home: "Home is where, when you go there, they have to take you in." Most children who emancipate from non-legally permanent care have none of these advantages. These young people are at severe risk of homelessness and destitution when common life crises occur such as loss of a job, dropping out of college, or a major illness.

The preferred goal for every child should, therefore, be to live in a legally permanent, autonomous home. In many cases, the most obvious way to achieve permanency is for the child to remain with, or return to, his or her parents. The law, Departmental policy and good social work practice all favor preserving or reunifying families, when that can be done safely,² as the preferred form of legal permanency. Nothing in this bulletin or in any other Department policy contradicts that principle. This is a primary reason for the Department's major efforts to develop intensive family preservation and support resources and to strengthen families in preparation for returning the child to his or her home. However, as we all know, not all children can return safely to their families.

If return home cannot be safely accomplished, the decision to move forward with adoptive planning should be made as soon as legally possible. Adoption provides legal protection and permanency for the child, as well as a sense of belonging and an opportunity for the child to identify with and form permanent emotional attachments to a family. All children are potentially adoptable as long as there is a family willing and able to adopt and the child is willing to be adopted. It is our responsibility and moral obligation to seek an adoptive family who can best meet the needs of each child under our care who cannot return home and to plan together for the future of these children.

² The idea of safe return home is critical. It is not necessarily the case that a child can return home safely simply because the parent(s) have fulfilled the requirements of the case plan. A recommendation to return home should not be made unless the caseworker is confident that the child will not be re-abused or re-injured. See "Our First Priority is Child Safety" and In Re Joseph B. 96 Daily Journal D.A.R. 1891 (2-22-96) "Consistent with the purpose of the dependency scheme, the question whether to return a child to parental custody is dictated by the well-being of the child at the time of the review hearing; if returning the child will create a substantial risk of detriment to his or her physical or emotional well-being (secs 366.21, subd. (e) & (f), 366.22 subd. (a) placement must continue regardless of whether that detriment mirrors the harm which had required the child's removal from parental custody (1894).

It is often difficult to determine with certainty that a child will never be able to return home safely. Because we recognize the importance of family ties, we try to give a family every opportunity to create a safe environment for its children. However, when families do not improve in a timely manner, a decision has to be made to find another permanent home for a child. Federal and State laws define relatively narrow time limits for family reunification. These limits were developed to prevent children from growing up in foster care without permanent homes and families. Family reunification remains our goal, however, when that is not feasible, it is imperative that we develop a permanent plan for our children as soon as the law permits. In some cases, it is neither necessary nor advisable to wait 18 months to recommend that the court terminate family reunification services. *Examples:*

- WIC 366.21 (e) specifies that at the review hearing that is held six months after the dispositional hearing, the court may schedule a WIC 366.26 Hearing within 120 days instead of waiting an additional 12 months, if a child was initially removed under WIC 300 (g) and the court finds that the parents are whereabouts unknown or have failed to contact and visit the child.
- WIC 366.21 (f) permits us to similarly accelerate the 366.26 process if there is evidence that returning the child "...would create a substantial risk of detriment to the physical or emotional well-being..." because of the parent/guardian's failure to regularly participate in court-ordered treatment programs.
- WIC 366.21 (g)(1) specifies that at the 12-month review hearing, the court shall continue the case for six months **only if it finds that there is a substantial probability that the child will be returned to his/her parents or guardian's custody within those six months** or that reasonable services have not been provided to the parent/guardian.

Attempting to be lenient in the application of the law does not serve our children well. Our own statistics show that the likelihood that a family will reunify declines sharply after the first 18 months to 2 years that the child is in care. Giving a family an open-ended period of time to reunify directly defeats the purpose of the law by delaying effective planning for the child's future without substantially increasing the chances that the child will go home.

The law and good practice clearly establishes a hierarchy of placement options for children who cannot return home which favors legal permanency over less permanent alternatives. If there is a qualified family willing to adopt the child, placement with that adoptive family is preferable to legal guardianship even if the child must move from an existing foster home to a new adoptive placement. This principle holds true regardless of the child's "bonding" with the potential guardians. While it is extremely undesirable to continually move a child, there is lasting value to moving a child from a temporary placement to a permanent one. We clearly accept this view when the move is from foster care to the child's own family. This is no less true for a legally permanent family newly created through adoption.

Relative guardianships present a different situation. Although a child in relative placement does not have a legally permanent home, the kinship relationship is permanent. So, in many instances, relative guardianships do provide the psychological and social permanency that is the goal for every child. For this reason, in many cases, but not all, relative guardianships may be an exception to the rule that a permanent placement is always preferable to one that is less than permanent. As with all permanent placement decisions, a thorough assessment must also be done to determine if this is the best home for the child. However, the possibility that the relative would be willing to adopt should not be ignored. Adoption allows families to make their own decisions without state intervention and maintain full control over their own lives. Many relatives would be willing to adopt if they were aware of the availability of adoption assistance payments and understood the importance of permanency to the child.

On the other hand, unrelated legal guardianship does not provide the assurance of permanency for a child. The decision to choose guardianship over adoption represents a conditional commitment to the child rather than a permanent one.

Long-term foster care provides the least stability and security for the child of all long-term placements and indicates the lowest level of commitment to the child. All too often these placements are temporary and the child moves many times. The resulting lack of permanency or belonging can lead to isolation, despair and ultimately withdrawal from society.

The fact that a young child is "bonded" to a foster family that is unwilling to adopt him or her is not an acceptable reason to eliminate the possibility of adoption for that child. By leaving the child in a placement that is, by its very nature, a temporary situation, we risk the possibility of a later move which could prove to be even more psychologically damaging. We must also question the message being given and the one-sided nature of this "bonding". Are we telling the child that although he or she may be bonded to the foster parent, the foster parent is not sufficiently bonded to him or her to make a long-term commitment? Children in this situation cannot feel that they are fully wanted and permanent members of a family. Too often the decision to leave a child in long-term foster care is based on the short-term desires of the caretaker, rather than a long-term life plan for a child.

The research on bonding demonstrates the importance to infants of developing emotional bonds with a parent figure. This bonding forms the basis for the development of intimate attachments later in life. Like language development, bonding is a skill or psychological task which must be accomplished during a critical period. The issue is not the specific bond that is formed, but rather the learning of the ability to bond. Works such as Beyond the Best Interest of the Child view bonding as a way of determining who is a psychological parent for custody purposes. The research is clear that "bonding" is not the only factor to be considered when placing a child in a home. The fact that the child has bonded to one adult is, in fact, a positive indication of his or her ability to attach to an adoptive family. While it may be deemed preferable to maintain an established

psychological bond with the foster family, permanency is of far greater importance to the child's future life and well-being.³

It is critical that we not forget the children who are already in a Permanent Placement mode/caseload. Periodically, at least every 18 months by law, we need to re-initiate the adoption assessment process for these children and submit the new assessment to the court. We are obligated by law and good casework practice to routinely re-assess these children for adoption.

The principles outlined in this bulletin do not preclude a reasoned look at individual cases in light of the law and good social work practice. For example, the law recognizes that the children over the age of twelve may choose not to be adopted and respects that choice. For older children with strong attachments to their families, this may be the correct decision. On the other hand, we should not presume that no older child wants to be adopted. Both individually and as a department we must make efforts to find creative solutions that provide permanency consistent with each child's individual needs. We must be vigilant in ensuring that we are actually looking at the needs of the child and not our own needs or desires or those of the caregiver.

We have the opportunity to touch the lives of the children and families with whom we work in a way that few others can. The decisions we all make now will affect these children's lives forever. All of our children deeply need, long for, and deserve legally permanent parents. The achievement of our mission and the very value of our professional lives depends on our success in ensuring that all children are provided with the security and emotional well-being that comes from being part of a legally permanent family.


PETER DIGRE, DIRECTOR

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³ See: Berrick, Needell, Barth and Jonson-Reid, "The Tender Years: Toward Developmentally-Sensitive Child Welfare Services for Very Young Children", CWRC, March, 1996 pp. 1-6 - 1-9 and sources quoted therein.

**REASONABLE EFFORTS:
CHILD ABUSE, ADOPTION AND CHILD WELFARE POLICY**

Worship
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I. INTRODUCTION

Senator DeWine and members of the Committee, thank you for the opportunity to testify today on the subject of federal child abuse, adoptions and child welfare policy. My name is Peter Digre and I am the Director of the Los Angeles County Department of Children and Family Services, a public child protection agency which, during 1995, responded to more than 170,000 reports of child abuse and neglect. My Department is the largest child protection agency in the country. Today and every day, I am personally responsible for the protection and care of more than 73,000 children. In addition to providing child protection services, my Department also is a full-service adoption agency. Each year, we are involved in the adoption of approximately 2,100 children.

I have 31 years of experience in administering state and local child protection programs in several of the most populous jurisdictions in the country.

In recognition of the importance of preserving families and in responding to the problem of numerous children remaining in the foster care system and growing up without legally permanent families, the Adoption Assistance and Child Welfare Act of 1980 (PL 96-272) required child protection agencies to engage in "reasonable efforts" to prevent a child's removal from home after they were abused or neglected, and to enable the reunification of families once children had been removed. The momentum to provide "reasonable efforts" was greatly enhanced when OBRA 93 created a block grant of funds for "family preservation and support" under Title IV-B of the Social Security Act.

No one can fault the legitimacy or worthiness of the goal of preserving and reunifying families. Indeed, in California family reunification is successful approximately 78% of the time for infants or 84% of the time overall. However, we cannot ignore the fact that at least 22% of the time infants who are reunified with their families are subjected to new episodes of abuse, neglect or endangerment (see Attachment I, Chart). Further, our Department of Children and Family Services' studies indicate that the likelihood of a child returning home declines precipitously the longer a child stays in foster care. For example, in 1995 only 5% of the children in foster care longer than 24 months were reunified.

*> 10% of
N+1 total !!*

In addition, the original problem of numerous children growing up without legally permanent families continues to grow unabated. Long-term foster care without adoption is not stable and not permanent. The Child Welfare Research Center at the University of California found that 83% of toddlers (ages 1-2 years) entering non-relative foster care had a change in foster parents within six years, and 62% had three or more foster homes (see Attachment II, Chart). Almost one out of three had five or more foster homes. Again, long-term foster care is, tragically, neither stable nor permanent, and the numbers grow every day as the University of California found that in California, fully 30% of infants entering foster care were in long-term foster care (neither adopted nor reunified) after four years (see Attachment III, Chart).

Adoption, on the other hand, creates lifetime parents. It is commonly not understood how remarkable stable adoption is. In California, only an average of 14 finalized adoptions are set aside annually out of a potential pool of 15,000, a rate of less than .1% or one out of 1,000.

The final tragedy of children growing up without lifetime parents occurs when they grow up and leave foster care, in most states at age 18, and become fully independent without a family to rely on. This is nearly an impossible task, one that my 18 year-old daughter could not have achieved and one that I do not believe I could have achieved. Indeed, I am 52 years old and my mother still keeps a bedroom in her house for me. I will, therefore, never become homeless, but some studies indicate that as many as 45% of 18-year-olds who leave the foster care system do become homeless at some point.

4 points
Based on the above, I am not ready to abandon "reasonable efforts" or "family preservation", however, the law must be vastly strengthened to: — 1:30

- emphasize that child safety is the first priority;
- emphasize legal permanency and concomitantly decrease the numbers of children growing up in long-term foster care;
- improve the life opportunities of those children who do grow up in foster care.
- correct problems created by PL 104-193

II. EMPHASIZE THAT CHILD SAFETY IS THE FIRST PRIORITY

1st
The word "reasonable" is often read out of "reasonable efforts" creating a situation in which children are placed in danger and re-abused in the name of family preservation and reunification. In short, we too often engage in "futile efforts" which are inherently unreasonable and small children pay the price.

This can be corrected with a simple statement of legislative intent indicating that in all child welfare decision-making, our first priority is child safety. This should be reinforced in three specific ways:

1. Specifically state in the statute that "reasonable efforts" do not include efforts that place a child in danger;
2. Judges, hearing officers and child abuse workers must make specific statements of facts which indicate why they conclude that children will be safe in family preservation or reunification decision-making;
3. Lawyers and guardians ad-litem who represent children must advocate only for decisions which are consistent with child safety; This clarifies a significant legal ambiguity since some lawyers assume that they must represent the wishes of the child client even if the child's wishes were incompatible with safety.

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The OBRA 93 family preservation and support efforts deserve special attention. In Los Angeles and throughout California and the United States, they have unleashed commendable creativity in the development of networks to preserve and strengthen families. At the same time, too little attention has been paid to well-known and basic standards that would vastly improve child safety. We are left with a thousand pilot projects without a core program, making any definition of family preservation impossible.

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The legislated state family preservation and support plan requirements should include specific standards, including 1) clarification that the first priority is always child safety, 2) careful risk assessment to exclude dangerous families, 3) a high level of in-home visitation to supervise children's safety, 4) a comprehensive range of services to increase families' capacities to protect their own children, and 5) partnerships with the community.

For example, in Los Angeles we have developed 28 Community Family Preservation Networks (CFPNs). Families with serious histories of violence or sexual assault are excluded unless the perpetrator can be removed. Community-based networks must visit each child in their home either four, eight or sixteen times a month depending on the intensity needed. Each CFPN must organize 23 key family supports, including drug treatment, housing, day care, transportation and jobs and other income supports, as well as the in-home visitation.

Our emphasis on community partnership both leverages existing resources on behalf of these families and builds a continuing community of support around them.

We have found that these high standards create the best possible outcomes:

- 85% of the time we are able to successfully preserve families in this program.
- During the first three years of our original twelve programs, 30% fewer children went into foster care in the communities they covered. The growth of African-American children in foster care was stopped dead, even as other groups showed rapid growth.
- Despite the implementation of the family preservation programs, child deaths declined in Los Angeles County for four consecutive years, from 61 in 1991 to 39 in 1994.

Finally, the need for good standards for child safety applies to the whole child protection program and not only to family preservation and support. Consequently, enhanced Title IV-E state plan requirements should include:

- minimal standards for in-home visitation;
- forensic pediatric examination for physically and sexually abused children;
- regular pediatric care for foster children;
- a timely response and resolution for each allegation of abuse and neglect;
- background screening of alleged abusers and foster and relative caretakers, including criminal and abuse screening;
- risk assessment;
- training for foster parents, including relative caretakers and child abuse workers.

Our concerns in Los Angeles County about the need to emphasize child safety led us this past year to sponsoring a bill, authored by State Senator Hilda Solis, to amend California law to specifically entitle every child to be safe and protected from abuse and neglect, and to require that all parties in Juvenile Court proceedings be responsible for child safety. As simple as our proposal sounded, we struggled mightily to assure its passage. Our

*Wendy
Cortez*

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Speer*

*Good
start*

opposition came from attorneys who unfortunately believed that their primary and only responsibility is to represent the child's wishes, even when those wishes place the child at risk of further harm (see Attachment IV, SB 1516).

Support for this measure came from a wide array of child advocates, child protection agencies and community groups. It was a bi-partisan bill, authored by a Democrat and co-authored by a Republican. Our State's Attorney General and our County's Sheriff gave the bill their unconditional support.

I believe that what our experience with this proposal revealed is that not everyone who has a role in child protection accepts that child safety is their responsibility. As long as that is the case, children will be at risk. We must retain the positive gains we have seen thus far with reasonable efforts and family preservation, but we must strengthen the law to emphasize that child safety is our first priority.

III. #2 EMPHASIZE LEGAL PERMANENCY

As indicated clearly above, foster care is tragically unstable while finalized adoptions are nearly completely stable. A child who is adopted has parents for his/her life. A child who grows up in foster care will probably have many caretakers and will not have any assurance of a family and home after he/she turns 18. Adoption must be vastly preferred to long-term foster care.

Congress can do the following to ensure that more children achieve legal permanency and that fewer enter long-term foster care.

1. Reject unreasonable efforts. Recognize in the statute that there are classes of parents for whom "reasonable efforts" and family preservation and reunification are or may be inherently unreasonable. These include:
 - parents who kill or maim children;
 - parents who aggressively sexually assault children;
 - parents with histories of violent criminal behavior;
 - parents who abandon children in life-threatening circumstances;
 - parents with long-term and chronic addictions.

In such situations, it is usually futile and unreasonable to endanger children by making efforts to preserve or reunify their families. Children in these circumstances should have the right to a safe family for life by being adopted while they are still young.

- 2. Require reasonable efforts for legal permanency. Strangely, the concept of "reasonable efforts" applies only to preserving and reunifying families and does not address the compelling need of children to have permanent parents for life. It is imperative, and rather simple, to require states to make reasonable efforts to find adoptive homes for children without safe families.

Our second effort in our State Capitol this year was a measure that made sweeping advances in facilitating adoption, emphasized legal permanency and will decrease the numbers of children growing up in foster care. Largely written by the Youth Law Center of San Francisco and authored by Assembly Member Louis Caldera, this measure added to the situations in existing law where the juvenile court is not required to order that we provide services to reunify seriously damaged families. Specifically, the new situations include those where children have been willfully subjected to life-threatening abandonment; children whose siblings or half-siblings could not be successfully reunited with parents; children whose parents have been convicted of violent felonies; and children whose parents have extensive, abusive and chronic histories of drug and alcohol abuse and have failed or refused treatment. The measure also holds that placement of children in a preadoptive home, in and of itself, shall not be deemed a failure to provide or offer reasonable services to reunify. Finally, the bill does not permit children under the age of six years to remain in long-term care with foster parents unable or unwilling to adopt. This measure moved through both houses of our State Legislature with no opposition, testimony to the fact that the public and our Legislature are no longer willing to allow all reasonable efforts to be extended to parents at great cost to children's futures and lives. (See Attachment V, AB 2679)

IV. IMPROVE THE LIFE CHANCES OF CHILDREN WHO GROW UP WITHOUT PERMANENT HOMES

Each year, thousands of youth who have grown up in foster care emancipate to independence without reliable and legally permanent families.

Many of these children face homelessness, many have highly incomplete educations and many will become involved in crime to support themselves. Since we did not provide permanent

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families for these children, we owe them the basic opportunity to succeed as adults. Congress should:

1. Declare national goals for children who must become independent after aging out of foster care.

These goals should include:

- a place to live;
- opportunity to continue education;
- life skills training;
- employment or income;
- access to health care;
- adequate clothing;
- availability of records, including educational history, driver's license, citizenship status, foster care history, health history;
- ties to community mentors.

The states' plans to achieve these goals should be incorporated in their Title IV-E plans.

2. Encourage states to develop employment, housing and scholarship opportunities for emancipating foster youth.

States should be required in their IV-E plans to specify how they will target local, state, federal and private sector employment, housing and scholarships for higher education opportunities for the special population of emancipating foster youth.

Some of the initiatives we are developing in Los Angeles include:

- blending public and private housing programs and foundation resources to create 400 apartment beds for emancipated youth, spearheaded by a very substantial grant from the Weingart Foundation;
- using the Job Training Partnership Act (JTPA) and the private sector to create jobs for all older foster youth. Targeted employment efforts should generate 2,000 jobs this year for older Department of Children and Family Services foster youth;
- encouraging local government and contractors to hire emancipating foster youth. My department has hired over 70 such youth with excellent results, including the use of 30 of them to be Emancipation Assistants to help younger children prepare for independence;
- encouraging blending private contributions with college, state and federal scholarships to enable

emancipating foster youth to go to college. This year my department has requests from 500 of our 800 emancipating youth for college scholarship assistance, and we will be able to honor all of them, thanks to the generosity of our community.

These and other efforts would be enhanced if Congress would lower the age for participation in the Independent Living Program from 16 to 14 to allow us to engage youth earlier in preparation for this most difficult transition.

Our third State legislative effort involved a bill, also authored by Assembly Member Louis Caldera, which required our colleges and universities to evaluate their outreach to and retention of former foster youth, and to assure that these youth are identified and informed of existing Extended Opportunity Programs and Services. It authorized targeted outreach to foster youth in conjunction with public child welfare agencies and required the inclusion of at least one former foster youth on college advisory councils.

Although this bill did experience some opposition, a number of the Members of the Legislature realized that all of us are responsible for foster youth and the State owes these youth what most parents would want for their own children. The universities and community colleges were partners in this effort and were eager to have the opportunities to make greater gains with this group of young adults (see Attachment VI, AB 2463).

Finally, our fourth effort was a bill sponsored by the California Youth Connection, an organization of and for current and former foster youth, and was authored by State Senator Diane Watson. This bill, as introduced, would have created programs to empower foster youth, specify legislative intent that youth leaving foster care have specific minimal daily living needs met, enact a foster youth bill of rights and responsibilities and encourage state and local governments to recruit and hire current and former foster youth.

Ultimately, this measure was vetoed by the Governor because he felt it duplicated existing regulatory requirements. Each of the other bills was signed into law by Governor Pete Wilson and will take effect on January 1, 1997.

We succeeded this year in strengthening California law to emphasize child safety, emphasize legal permanency and improve life opportunities for those children who do grow up in foster care. These measures are models of sound child safety public policy.

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V. IMPACT OF PUBLIC LAW 104-193

On many occasions during the past year, I have expressed my concerns about the impact of the sweeping changes the newly enacted welfare reform legislation will have on our child protection programs. I have two items that I believe could be easily remedied as Congress reconvenes for its new session in 1997.

First, PL 104-193, the Personal Responsibility and Work Reconciliation Act of 1996, prohibits those convicted of felony drug-related offenses from receiving Temporary Assistance for Needy Families. I would submit to you that we do have a proportion of parents who may fall into this category, but who have paid their price to society and who have successfully rehabilitated themselves through participation in drug treatment and have become totally drug free. These parents should have a chance to redeem their lives. They should be exempted from this federal prohibition, which can only serve to raise the odds against them and place their children at greater risk of growing up in the child protection system.

Second, in Los Angeles County, slightly more than half of the children in our foster care caseload are placed with relatives, while statewide slightly less than half are placed with relatives. In California and Los Angeles County, we are well-positioned to implement the new federal requirement contained in PL 104-193 which specifies that homes of relatives must be the first child placement consideration when safe. Our reality, however, is that not all the relatives with whom children might be placed are people of great means. Many of these relatives, considering that care of abused and neglected children also means costly child care and remedial medical and psychological care, find themselves in need of financial assistance. These relatives should not be subject to the work requirements and time-limit provisions of the new welfare reform program if we ask them to become caregivers for their grandchildren and nieces and nephews, and if Congress expects states to meet this requirement. Congress must reconsider these requirements and search for a better reconciliation of these provisions.

classification

VI. OUR CONTEXT: CHILD ABUSE AND NEGLECT CONTINUES TO INCREASE DRASTICALLY

The United States Department of Health and Human Services recently released the Third National Incidence Study of Child Abuse and Neglect, the single most comprehensive source of information about the current incidence of child abuse and neglect in the United States. While I will not review for you the entire study and its findings, I want to share with you the most critical points that I believe underscore the need for decisive action by Congress to make

child safety our nation's highest priority, data which is not totally dissimilar from that I have tracked in my own County.

Using data that includes both first-time as well as subsequent incidents of abuse and neglect, the Study's findings are alarming:

- Based on 1993 data, the Study reflects a dramatic 149 percent increase since the 1980 Study in children suffering from subsequent incidents of abuse or neglect.
- Between 1986 and 1993, there was a 98 percent increase in the total estimated number of abused and neglected children.
 - Abuse and neglect increased across all categories, including physical, sexual and emotional abuse, as well as physical and emotional neglect;
 - The number of children seriously injured by abuse or neglect increased by 298 percent.

The Study found that family income was significantly related to the rates of incidence in nearly every category of maltreatment, a finding that was consistent with the findings in the 1986 Study. Children in families with annual incomes below \$15,000 per year were found to be more than 22 times and 25 times more likely to experience some form of maltreatment under the two study standards than children in families with annual incomes of \$30,000 per year or more. Child neglect means lack of the necessities of life, including food, clothing and shelter; while child abuse is often a reaction to frustration and stress.

And finally, the Study shows that our child protection systems appear to have reached their maximum capacity to respond to these maltreated children. Despite the rising numbers of children found to be abused or neglected, the actual numbers of children whose abuse and neglect was investigated by Child Protective Services (CPS) remained stable, meaning that a larger percentage of children has not had access to CPS. (See Attachment VII, *Child Abuse and Neglect National Incidence Study.*)

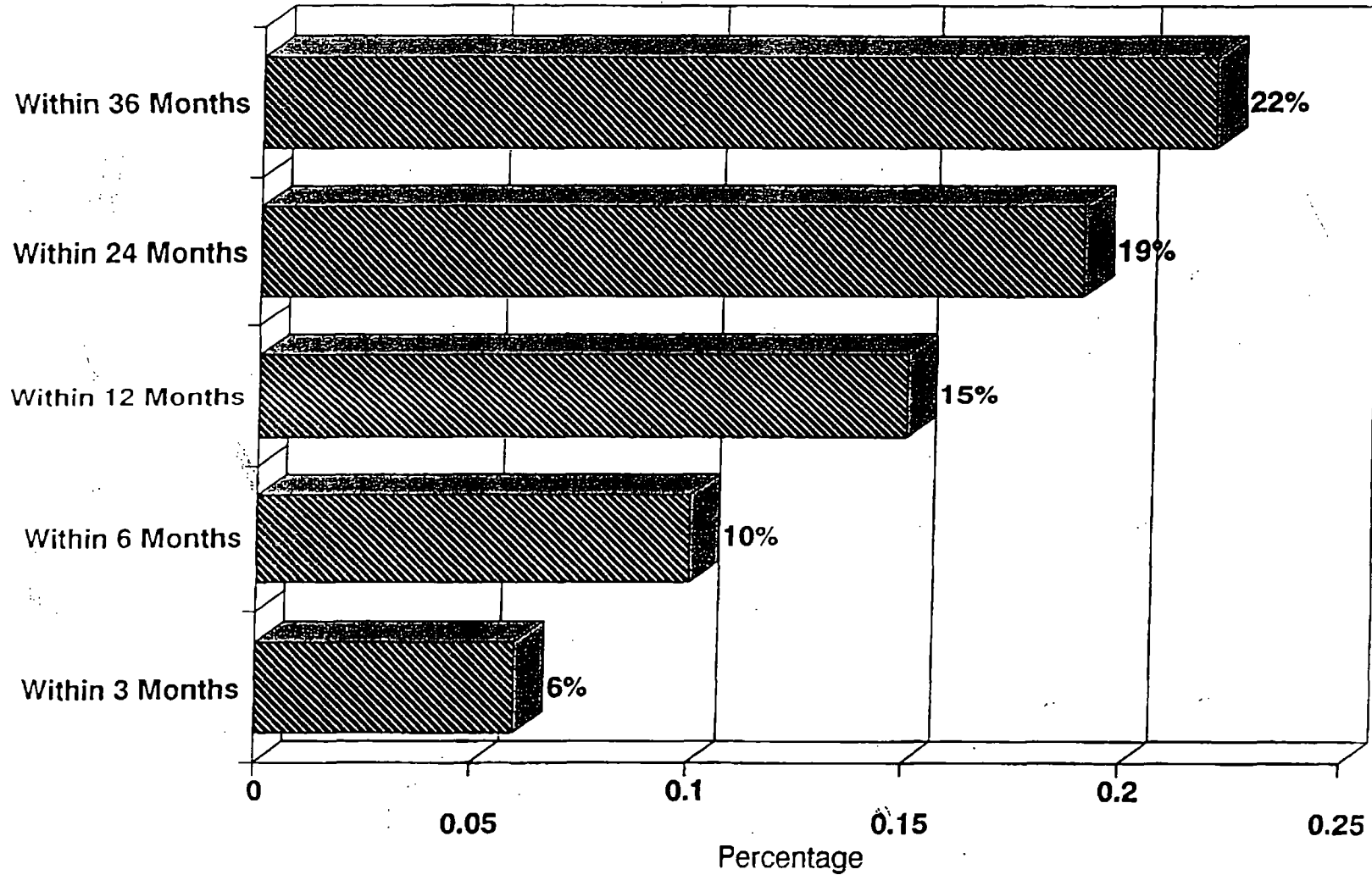
VII. CONCLUSION

The Adoption Assistance and Child Welfare Act of 1980, supplemented by OBRA 93, laid a substantial foundation for child protection. However, the experience of the past sixteen years has shown numerous ways in which the law must be improved in order to increase child safety, emphasize legal permanency through adoption and create basic opportunities for foster youth who emancipate without legally permanent families.

Fos Care Re-Entry After Reunification

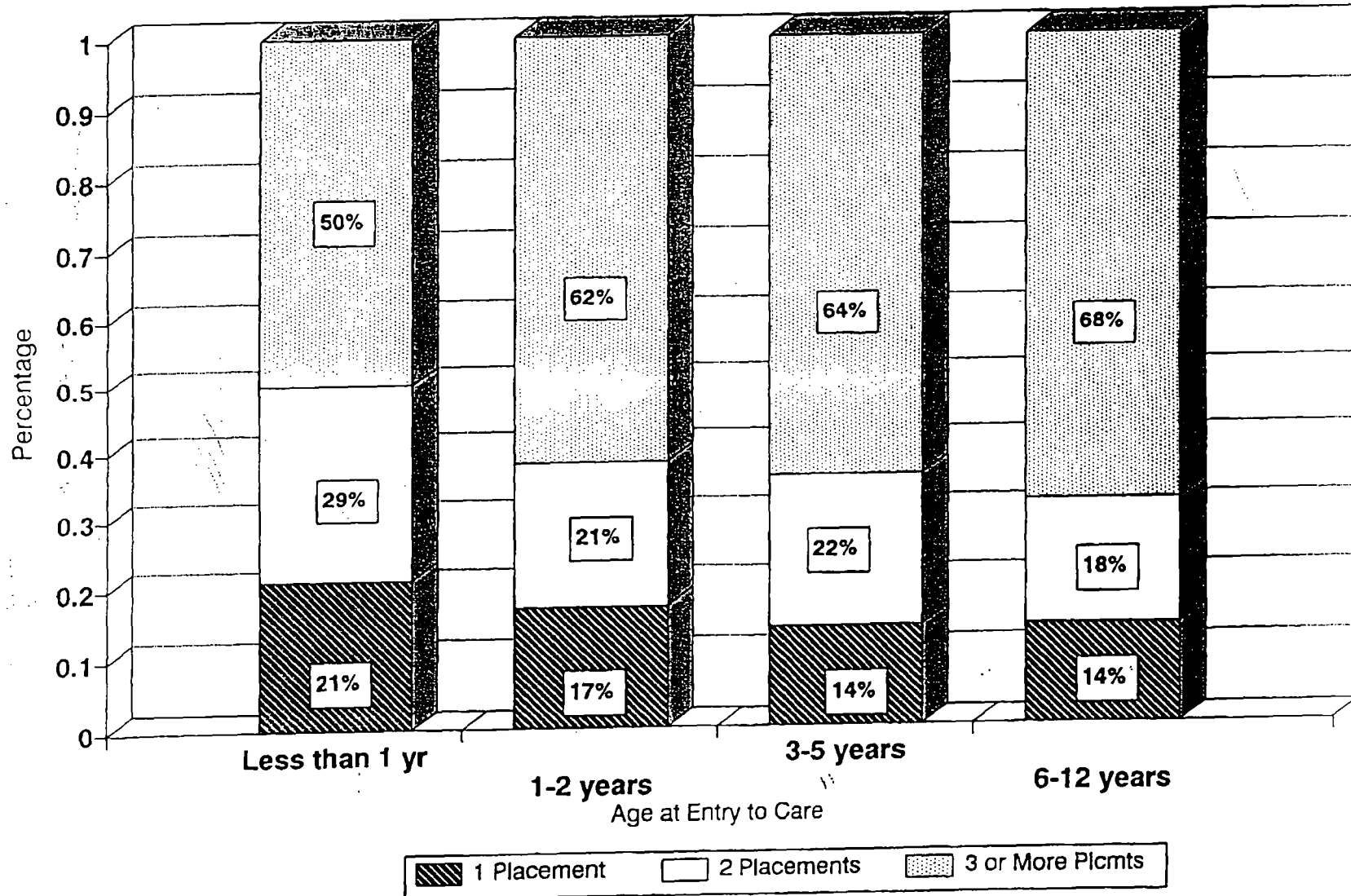
Calif Cumulative Probability Totals

For Infants



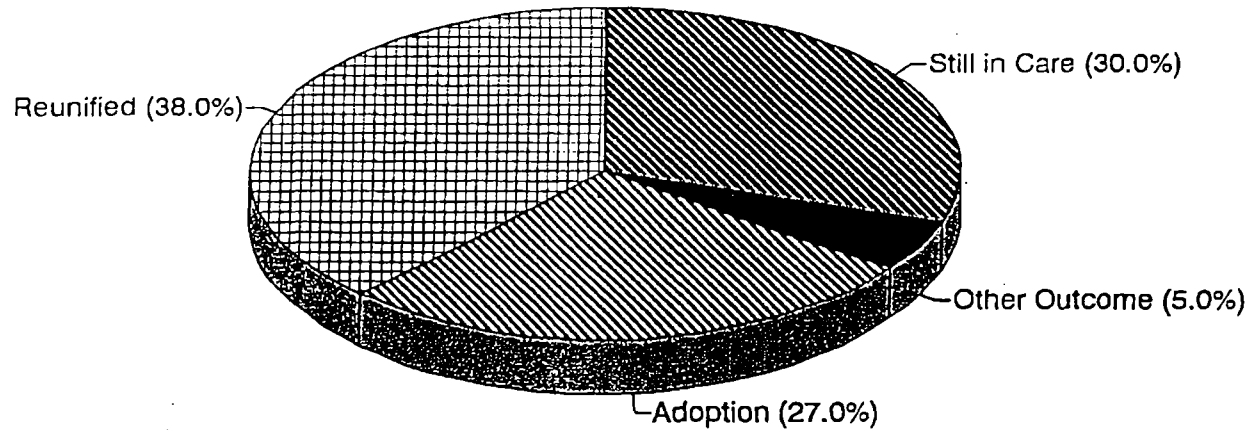
Placements After 6 Years in Foster Care

Non-Kin Foster Care Placements



Outcomes at 4 Yrs: Non-Kin Foster Care Infant <1 Month Old @ Foster Care Entry

CALIFORNIA



LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND FAMILY SERVICES
LEGISLATIVE SUMMARY

SB 1516 (SOLIS): as amended on August 29, 1996
Dependent Children: Reunification with Parents or Guardians.

Existing Law:

- Authorizes the juvenile court to appoint counsel to represent a child who is the subject of a dependency court proceeding under Welfare and Institutions Code Section 300.
- Provides procedures and standards for reunification of children in foster care with their parents or guardians.
- Requires that the state establish and support a public system of statewide child welfare services.

This Legislative Proposal:

- Specifically states legislative intent that children are entitled to be safe and free from abuse and neglect.
- Provides that a primary responsibility of counsel appointed to represent children in the dependency court shall be to advocate for the protection, safety, and physical and emotional well-being of the child.
- Requires attorneys representing children in the dependency court to advise the court of the child's wishes and that they shall not advocate for the return of the child if it conflicts with the protection and safety of the child.
- Requires the court to state the basis for its decisions.
- Existing Law provides that children shall not be returned home to parents/guardians when the court finds, by a preponderance of the evidence, that the return would create a substantial risk of detriment. The bill clarifies that the risk of detriment is risk to the safety, protection, and physical or emotional well-being of the child.

Status:

- Passed unanimously out of the Senate on May 9, 1996.
- Passed out of the Assembly and Senate for concurrence on August 31, 1996.
- Chaptered on September 30, 1996.

AB 2679 (CALDERA): as amended on August 22, 1996
Dependent Children.

Existing Law:

- Welfare and Institutions Code Section 300 describes children who come within the jurisdiction of the juvenile court, including a child whose parents or guardian has been convicted of causing the death of another child.
- Welfare and Institutions Code Section 361.5 requires the Dependency Court to order family reunification services to parents or guardians of children removed from their custody and provides for specific instances under which reunification services need not be provided.

This Legislative Proposal:

- Provides that a child may be adjudged a dependent of the court if the child's parent or guardian "caused" rather than "has been convicted of causing" the death of another child through abuse or neglect.
- Provides additional circumstances under which the court need not order family reunification services, including:
 - the child was willfully abandoned by his or her parent or guardian and the court finds that the abandonment would have resulted in serious harm to the child;
 - the child's siblings or half-siblings were removed from the parent or guardian, reunification efforts failed, and the court ordered a permanent plan of adoption, guardianship, or long-term foster care for the siblings or half-siblings;
 - the parent or guardian has been convicted of a violent felony;
 - the parent or guardian has a history of extensive abuse and chronic use of drugs or alcohol and has resisted prior treatment for this problem;
- Specifies that the placement of a minor in a preadoptive home or with a family that is eligible to adopt, in and of itself, shall not be deemed a failure to provide or offer reasonable services.

Status:

- Passed out of the Assembly on May 20, 1996.
- Passed out of the Senate Judiciary Committee on June 18, 1996, and moved to the Senate Floor.
- Passed out of the Senate on August 26, 1996, and has moved to the Assembly Floor for concurrence.
- Passed out of the Assembly on August 30, 1996.
- Chaptered on September 30, 1996.

AB 2463 (CALDERA): as amended on August 8, 1996
Outreach and Assistance for Emancipated Foster Youth.

Existing Law:

- Prescribes responsibilities and duties for Trustees for California State University and the Board of Governors of the California Community Colleges. This measure adds Section 89340-89347 to the Education Code to address the unique problems, obstacles, and pressures that hinder foster youth from enrolling, attending, or graduating from college.

This Legislative Proposal:

- Expresses legislative findings and declarations regarding the unique problems, obstacles, and pressures that hinder a foster youth's access to college;
- Expresses legislative intent that the Trustees of the California State University (CSU) and the Board of Governors of the California Community Colleges (CCC) expand the university's access and retention programs to include outreach services and technical assistance to foster youth to encourage their enrollment in college;
- Requires the Trustees and the Board of Governors:
 - to review housing issues and to ensure universal service during the summer, school vacations, and holidays for emancipated foster youth living on campus;
 - to provide advice on ways to improve the delivery of services to emancipated foster youth; to evaluate the extent to which programs meet the needs of foster youth; and to track the retention rates of known emancipated foster youths;
- Provides for emancipated foster youth student representation on CSU Advisory Councils;
- Requires the State University Educational Opportunity Program and California Community College Extended Opportunity Programs and Services to ensure that emancipated foster youth are informed of services, including mentoring programs;
- Requires the State Department of Social Services and County Welfare Departments in coordination with CCC, CSU, and the Student Aid Commission to communicate and facilitate the outreach and technical assistance efforts for foster youth interested in attending college.

Status:

- Passed unanimously out of the Senate on August 14, 1996.
- Passed out of the Assembly on August 30, 1996.
- Chaptered on September 30, 1996.

WASHINGTON

Social Legislation

BULLETIN

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SOCIAL LEGISLATION INFORMATION SERVICE • 440 FIRST STREET, N.W., WASHINGTON, D.C. 20001

CHILD ABUSE AND NEGLECT NATIONAL INCIDENCE STUDY

The Department of Health and Human Services has just released the Third National Incidence Study of Child Abuse and Neglect. This is the single most comprehensive source of information about the current incidence of child abuse and neglect in the United States and is based on a nationally representative sample of over 5,600 professionals in 842 agencies serving 42 counties. The study used two sets of standardized definitions of abuse and neglect. Under the Harm Standard, children identified in the study were considered to be maltreated only if they had already experienced harm from abuse or neglect. Under the Endangerment Standard, children who experienced abuse or neglect that put them at risk of harm were included in the set of those considered to be maltreated, together with the already-harmed children. The findings of the Third National Incidence Study show a sharp increase in the scope of the problem, whether maltreatment is defined using the Harm Standard or the Endangered Standard.

Estimated Incidence Defined by Harm Standard

An estimated 1,553,800 Children in the United States were abused or neglected in 1993. The total reflects a 67 percent increase since the Second Incidence Study which indicated that the total was 931,000 in 1986, and it corresponds to a 149 percent increase since the First Incidence Study estimate for 1980 of 625,100 children. The number of abused children rose by 46 percent from an estimated 507,700 in 1986 to 743,200 in 1993. The number of neglected children increased significantly from 474,800 in 1986 to 879,000 in 1993.

Significant increases were found in the incidence of sexual abuse, physical neglect, and emotional neglect, and a close-to-significant (statistically marginal) increase was observed in the incidence of physical abuse.

- The estimated number of sexually abused children rose from 119,200 in 1986 to 217,700 in 1993 (an 83 percent increase).

- The number of physically neglected children increased from 167,800 in 1986 to 338,900 in 1993 (a 102 percent increase).

- There was a 333 percent increase in the estimated number of emotionally neglected children, from 49,200 in 1986 to 212,800 in 1993.

- The estimated number of physically abused children was 269,700 in 1986, increasing to 381,700 in 1993.

There was a substantial and significant increase in the incidence of children who were seriously harmed and a statistically marginal increase in the number for whom injury could be inferred due to the severe nature of the maltreatment. The estimated number of seriously injured children essentially quadrupled from 141,700 to 565,000. The number of children for whom injury could be inferred increased from an estimated 105,500 to an estimated 165,300 (a 57 percent increase).

Incidence Using Endangerment Standard

Between 1986 and 1993, the total estimated number of abused and neglected children in the United States who fit the Endangerment Standard nearly doubled. In 1986, there were an estimated 1,424,400 abused and neglected children in the United States. The 1993 estimate of 2,815,600 reflects a 98 percent increase. Significant increases were found in both abuse and neglect. The number of abused children more than doubled from 590,800 to 1,221,800 (a 107 percent increase), while the number of neglected children also more than doubled from 917,200 to 1,961,300 (a 114 percent increase). The increases were substantial and significant in all types of abuse and neglect except educational neglect.

- The estimated number of physically abused children rose from 311,500 to 614,100 (a 97 percent increase).

- The estimated number of sexually abused children increased from 133,600 to 300,200 (a 125 percent increase).
- The more recent estimate of the number of emotionally abused children was 183 percent higher than the previous estimate (188,100 in 1986 versus 532,200 in 1993).
- The estimated number of physically neglected children increased from 507,700 to 1,335,100 (a 163 percent increase);
- The estimated number of emotionally neglected children nearly tripled, rising from 203,000 to 585,100 (a 188 percent increase).

When the children whose abuse or neglect met the Endangerment Standard were classified according to the injury or harm they suffered, significant increases were evident in two categories. First, the 1993 estimate of the number of children who were endangered by their maltreatment (but not yet harmed) was more than four times the 1986 estimate. That is, the number of endangered children rose from an estimated 254,000 in 1986 to an estimated 1,032,000 in 1993 (a 306 percent increase). Second, the number of children who were seriously injured or harmed by abuse or neglect that fit the Endangerment Standard in 1993 was well over one-half million, which is nearly quadruple the 1986 estimate for the category. In 1986, an estimated 143,300 children had been seriously injured by abuse or neglect. In 1993, the figure was 569,900 (a 298 percent increase). Note that nearly all (99 percent) of the children who counted as seriously injured here were also countable under the Harm Standard, so the near-quadrupling of their numbers since 1986 essentially reiterates what was reported in connection with the Harm Standard.

Distribution by Child's Characteristics

The child's sex and age were related to the rate of maltreatment, but race was not.

Child's Sex: Girls were sexually abused about three times more often than boys, under both the Harm and Endangerment Standards. This finding reiterates the 1986 result, so females' disproportionately greater risk of sexual abuse has been stable over time. This sex difference in incidence rates of sexual abuse leads to higher rates of abuse in general among girls. Also, because the definitional guidelines permit the inference that injury or harm occurred in connection with the more extreme forms of sexual abuse, girls' greater risk of sexual abuse also accounts for their higher incidence rates for inferred injury.

At the same time, boys had higher incidence rates than girls in some arenas, and boys' maltreatment risks also demonstrated some increases since 1986. Boys were at somewhat greater risk of serious injury (24 percent higher than girls' risk under both definitional standards), and boys were significantly more likely to be emotionally neglected (boys' risk was 18 percent greater than girls'). Also boys' rates of physical neglect defined by the Harm Standard and of emotional abuse

using the Endangerment Standard increased more than girls' rates did. Moreover, trends in the incidence of fatal injuries from maltreatment moved in opposite directions for girls and boys—the incidence of fatally injured girls declined slightly while the incidence of fatally injured boys rose.

Child's Age: A consistent feature of the age difference in incidence rates in 1993 was the lower incidence of maltreatment among the younger children under both definitional standards. In most cases, the differentiation was between the 0 to 2-year-olds and older children or between the 0-5-year-olds and older children. It is possible that the lower rates at these younger ages reflect undercovering of these age groups. That is, prior to attaining school age, children are less observable to community professionals.

Another recurring theme in connection with age is that of disproportionate increases in the incidence of maltreatment among the younger children (under 12 years old) and especially among children in their middle childhood years (ages 6 to 11). As circumstances deteriorate and maltreatment becomes more prevalent and more severe, older children have greater opportunities for escape. Also, older children are more able to defend themselves and/or retaliate. These factors may have moderated the increases in maltreatment that were observed among the older age group.

The disproportionate increases during the younger and middle childhood years mean that the overall profiles of age differences in maltreatment were different in 1993 than in 1986. In 1986, the risk of maltreatment generally increased with the age of the child in a close to linear fashion. With the lopsided increases among the younger children and children in middle childhood years, the profile has changed toward a curvilinear configuration—where the middle years childhood are associated with the maximum risk of maltreatment—and toward a somewhat flatter distribution—where age differences are somewhat attenuated overall compared to 1986.

One of the most striking findings is the age distribution of sexual abuse, which combined the general flattening of the age differences in incidence rates with a very low age transition in the distribution of incidence rates. The rate of sexual abuse as defined under the Endangerment Standard was very low for 0-2-year-olds, but then relatively constant for children ages three and older, indicating a very broad age range of vulnerability from preschool age up.

Race: The 1993 study found no race differences in maltreatment incidence. The study reiterates the findings of the earlier national incidence studies in this regard. Service providers may find these results somewhat surprising in view of the disproportionate representation of children of color in the child welfare population and in the clientele of other public agencies. However, it should be recognized that the study methodology identifies a much broader range of children than those who come to the attention of any one type of service agency or the even smaller subset who receive child protective and other child welfare services. The study findings suggest that the different races receive differential attention somewhere during the process of referral, investigation, and service allocation, and that the differential representation of

minorities in the child welfare population does not derive from inherent differences in the rates at which they are abused or neglected. While there are no overall race differences in the incidence of child abuse and neglect in the 1993 findings, subsequent analyses that simultaneously consider multiple characteristics may reveal race differences in maltreatment incidence among specific subsets of children (e.g., for children of certain ages, for one sex but not the other, etc.).

Distribution by Family Characteristics

The incidence of child maltreatment varied as a function of family income, family structure, family size, and the metropolitan status of the county.

Family Structures: Children of single parents were at higher risk of physical abuse and of all types of neglect and were overrepresented among seriously injured, moderately injured, and endangered children. Compared with their counterparts living with both parents, children in single parent families had:

- A 77 percent greater risk of being harmed by physical abuse (using the stringent Harm Standard) and a 63 percent greater risk of experiencing any countable physical abuse (using the Endangerment Standard).
- An 87 percent greater risk of being harmed by physical neglect and a 165 percent greater risk of experiencing any countable physical neglect.
- A 74 percent greater risk of being harmed by emotional neglect and a 64 percent greater risk of experiencing any countable emotional neglect.
- A 220 percent (or more than three times) greater risk of being educationally neglected.
- An approximately 80 percent greater risk of suffering serious injury or harm from abuse or neglect.
- An approximately 90 percent greater risk of receiving moderate injury or harm as a result of child maltreatment.
- A 120 percent (or more than two times) greater risk of being endangered by some type of child abuse or neglect.

Among children in single parent households, those living with only their fathers were approximately one and two-thirds more likely to be physically abused than those living with only their mothers. Although parents are not necessarily, nor even most frequently, the perpetrators of maltreatment, the relationship between parent structure and maltreatment incidence is understandable, considering the added responsibilities and stresses of single parenting together with the likelihood that surrounding social and practical support may be inadequate.

Family Size: The incidence of maltreatment was related to the number of dependent children in the family, especially

in the categories of physical and educational neglect. For educational and physical neglect according to the Harm Standard, the incidence rates were highest for children in the largest families (those with four or more children), intermediate for "only" children, and lowest for children in families with two to three children. Children in the largest families were almost three times more likely to be educationally neglected and nearly two and two-fifths times more likely to be physically neglected under the Harm Standard, compared to children in families with two or three children. Children in the largest families were physically neglected at nearly three times the rate of those who came from "only" child families.

Additional children in a household mean additional tasks and responsibilities so it is understandable why incidence rates of abuse and neglect may be higher when there are more children. Accounting for why "only" children have higher rates of educational neglect and of physical neglect than children in families with two or three children requires a different explanation. One possibility is that there may be too many expectations focused on "only" children, whereas expectations (and disappointments) are different over multiple children in the larger families. Many "only" children are in families with relatively young and inexperienced parents and caretakers.

County Metropolitan Status: The incidence of children who had been moderately harmed by maltreatment was significantly lower among children in large urban counties than among children who lived in other urban counties. This was interpreted as reflecting a general undercoverage of moderately injured maltreated children in the large urban counties. It was not clear whether this was because the moderately injured children are less likely to be encountered by community professionals in the large urban centers, because community professionals in these locales are less likely to identify these children as maltreated, or because the study information sources in these counties are less likely to submit data about these maltreated children.

Family Income: Despite the fact that only a rather gross index of family income was available, and despite a substantial percentage of cases with missing data on this factor, family income was significantly related to incidence rates in nearly every category of maltreatment. Compared to children whose families earned \$30,000 per year or more, those in families with annual incomes below \$15,000 per year were: more than 22 times more likely to experience some form of maltreatment under the Harm Standard and over 25 times more likely to suffer maltreatment of some type using the Endangerment Standard. The 1993 findings on the correlation between family income and child maltreatment are entirely consistent with earlier finding in the 1986 study. Moreover, they cannot be plausibly explained on the basis of the higher visibility of lower income families to community professionals.

If the income finding is interpreted as an artifact of selective observation of low income families, then it would mean that there have to be enough undetected abused and neglected children in the middle and upper income brackets used here to equalize the incidence rates across different income categories. That would require an astounding number

of still undetected children in the nation who experience countable maltreatment. It would mean that an additional 2,138,700 children suffered maltreatment yet remained hidden to the study.

Distribution by Perpetrator Characteristics

The majority of all children countable under the Harm Standard (78 percent) were maltreated by their birth parents, and this held true both for children who were abused (62 percent) and for those who were neglected (91 percent experienced neglect by birth parents). The pattern was distinctly different for sexual abuse. Nearly one-half of the sexually abused children were abused by someone other than a parent or parent substitute, while just over one-fourth were sexually abused by a birth parent, and one-fourth were sexually abused by other than a birth parent or parent substitute.

Children were somewhat more likely to be maltreated by female perpetrators than by males. Of children who were maltreated by their birth parents, the majority (75 percent) were maltreated by their mothers and a sizable minority (46 percent) were maltreated by their fathers. In contrast, children who were maltreated by other parents or parent substitutes or by other persons were more likely to have been maltreated by a male than by a female (80 to 85 percent were maltreated by males; 14 to 41 percent by females). Children were more often neglected by female perpetrators (87 percent by females versus 43 percent males). In contrast children were more often abused by males (67 percent versus 40 percent by females). The prevalence of male perpetrators was strongest in the category of sexual abuse, where 89 percent of the children were abused by a male compared to only 12 percent by a female.

Child Protective Service Investigations

The study findings concerning the percentages of abused and neglected children whose maltreatment received Child Protective Service (CPS) investigation are cause for serious concern. Only a minority of the children who were abused or neglected, by either definitional standard, received CPS attention for their maltreatment. CPS investigated the maltreatment of only 28 percent of children who were countable under the Harm Standard and of only 33 percent of those whose maltreatment fit the Endangerment Standard. Moreover, the percentage of those who received CPS investigation represented less than one-half of the maltreated children in all categories of maltreatment except fatalities. Especially remarkable was the finding that CPS investigations extended to only slightly more than one-fourth of the children who were seriously harmed or injured.

Another important finding was that the percentages of maltreated children who receive CPS investigation have decreased significantly since 1986. The percentage of children receiving investigation among those who met the Harm Standard dropped from 44 percent to 28 percent, while the percentage of CPS investigation of children who met the Endangerment Standard fell from 51 percent to 33 percent.

At the same time, the actual numbers of children investigated by CPS remained stable or even slightly increased. Thus, as the total number of maltreated children has risen, it means that a larger percentage of them have not had access to CPS investigation of their maltreatment. This picture suggests that the CPS system has reached its capacity to respond to the maltreated child population.

42 (9-23-96)

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WASHINGTON SOCIAL LEGISLATION BULLETIN

Child Abuse and Neglect Third National Incidence Study

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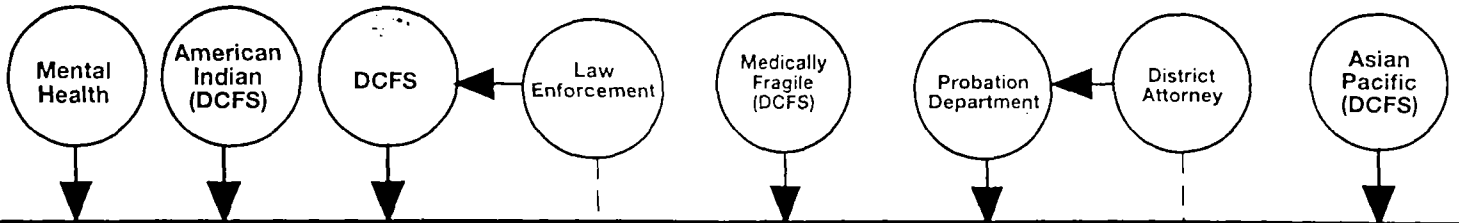
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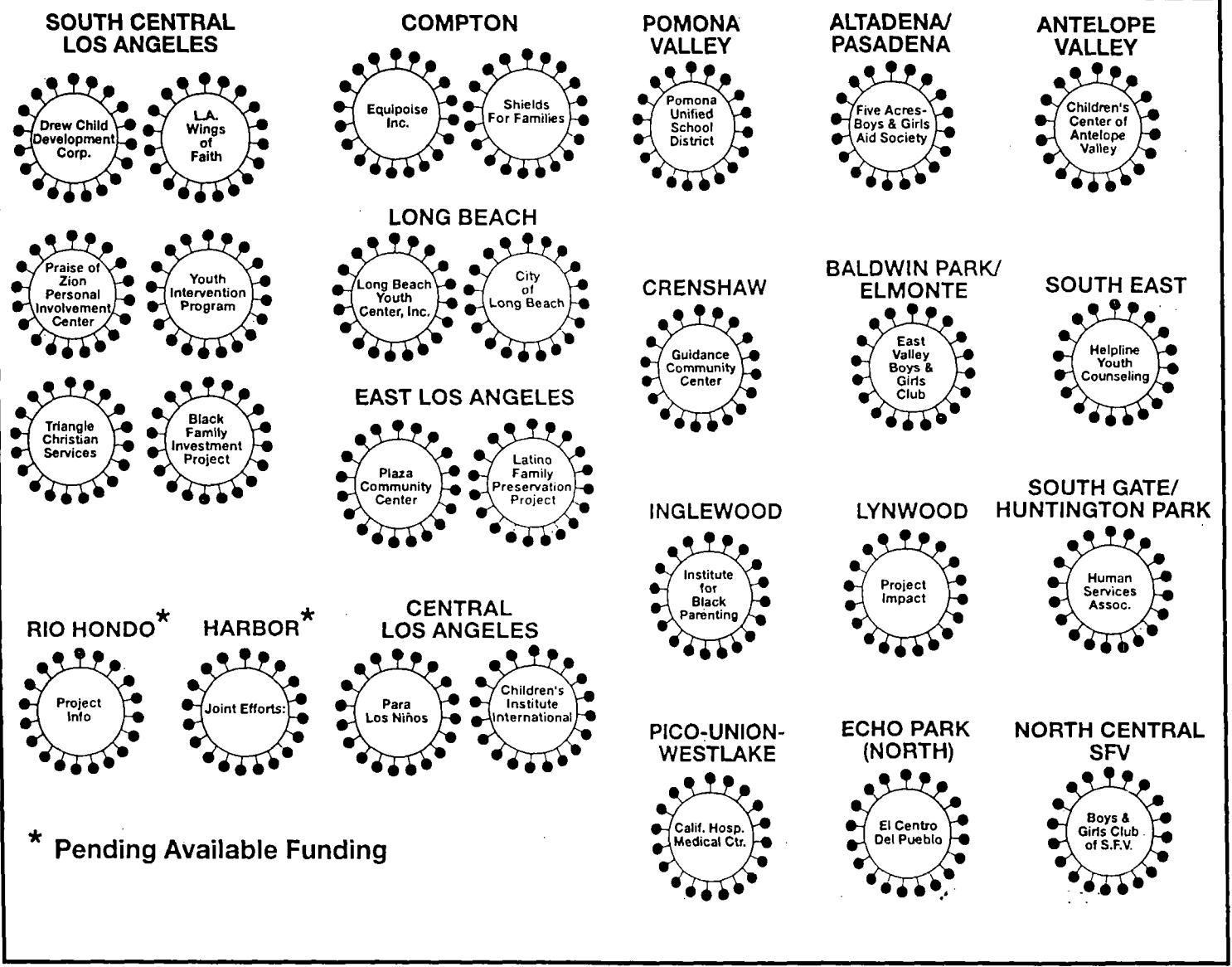
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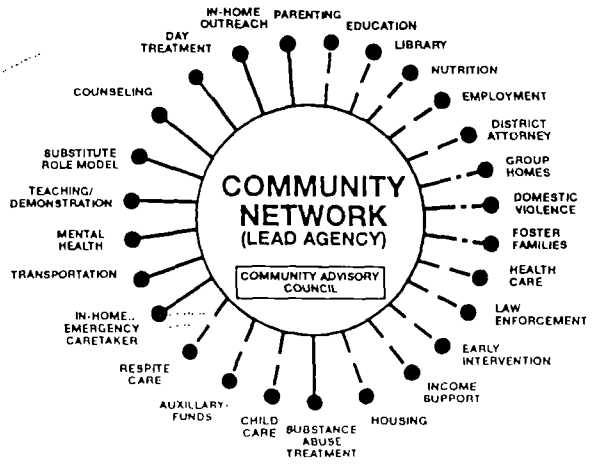
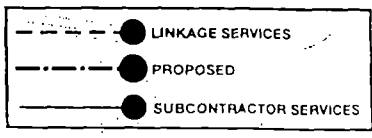
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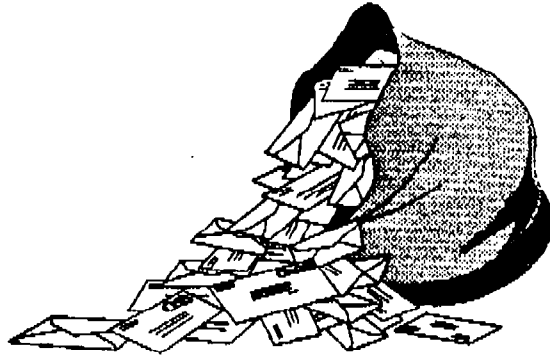
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OFFICE OF MANAGEMENT AND BUDGET
Legislative Reference Division
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Teletypewriter Transmittal Sheet



URGENT

FROM: Melinda Haskins

395-3923

DATE: 4/3/97

TIME: 6:15 pm

Pages sent (including transmittal sheet): 5

COMMENTS:

Here are the OMB (McKeam) and Treasury comments on the HHS testimony on HR 867. Are these OK?

TO: Nicole Rabner

PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.

Our proposed agenda is multifaceted in order to address the broad range of barriers and challenges that exist in the child welfare system. The report presents strategies to establish, track, and meet State-by-State annual, numerical targets for adoptions and other permanent placements -- targets that will bring us to a national doubling of adoptions and permanent placements in the year 2002. To help States reach their targets, the Department commits to providing expanded technical assistance, rewarding States for incremental increases in adoption levels with per-child financial bonuses, and otherwise recognizing successful performance.

Perhaps most important, the report also addresses the need to clarify the "reasonable efforts" provision to make it clear that in determining whether and when to remove a child from his or her family and whether and when to reunify the family, Federal law requires that the child's health and safety shall be the paramount concern. It also calls for providing guidance to the States to emphasize that child health and safety must also be of primary concern when making decisions to terminate parental rights. Furthermore, the *Adoption 2002* report supports the passage of legislation that shortens the time before a child's first dispositional hearing -- the hearing in which a permanency decision is first made -- from 18 months to 12 months, and changes its name to "permanency planning hearing." *to emphasize that the purpose of the hearing is to establish a definitive plan for permanent placement.*

Provisions in H.R. 867

We are extremely pleased that H.R. 867, the Adoption Promotion Act, proposes many of

these critical actions, including clarifying reasonable efforts, earlier dispositional hearings, performance targets, technical assistance and adoption bonuses.

Reasonable Efforts

The Adoption Promotion Act would clarify current Federal statutory language requiring that "reasonable efforts" be made both: (1) to prevent the unnecessary removal of children from their families; and (2) to reunify children, when possible, who have been placed in foster care with their families. The goal of the reasonable efforts provision is to prevent children from languishing unnecessarily in foster care and to avoid the unnecessary disruption of families.

We strongly support the legislation's goal of providing greater clarity about what is meant by "reasonable efforts." This change is critical because it has become clear that there is wide

variation in how the current "reasonable efforts" law is interpreted by caseworkers, agencies, and judges around the country.

The Adoption Promotion Act would
It is essential that Federal law be unequivocal in establishing that the child's health and safety be of paramount concern in making placement and

agency decisions. We also believe it is useful to provide illustrations of the circumstances in which "reasonable efforts" may not be appropriate or required.

Additionally concerns about a child's health and safety take precedence over family preservation or reunification.

We also strongly support two other provisions of H.R. 867, recommended in the Adoption 2002 report, that would help children who cannot go home move more quickly towards permanent homes. First, we support the inclusion of statutory language requiring States to

more timely decision-making, however, is the expectation that services be provided from the moment that the child enters care.

Performance Targets

Section 8 of the bill reflects an interest in moving forward with the development of outcome measures and the broad dissemination of State-level data on key indicators. This interest in outcomes ~~is consistent with the~~ ^{supports; implementation of} Government Performance and Results Act (GPRA) and ~~is an~~ ^{area in which we have already undertaken work. in this area.} ~~area~~ ^{builds on work} in which we have already undertaken work.

Consistent with the President's Executive Memorandum, the Department has committed to issue an annual State-by-State report, beginning in the Spring of 1999, on the Nation's progress in meeting the adoption goals. The annual report will provide State-by-State figures on key measures of success including not only the number of children in foster care who are adopted or placed in guardianship, but measures that reflect the experience of children in the child welfare system, such as the length of time in care and the timeliness of permanency decisions.

The Adoption and Foster Care Analysis and Reporting System

In addition, through the revised child and family services monitoring strategy that we have been piloting with States, we are asking States to use data submitted to AFCARS, as well as to the National Child Abuse and Neglect Data System (NCANDS), to help assess their

provides a concrete incentive to States for increasing the number of adoptions, but also pays for itself, with the cost of the bonuses offset by savings in foster care costs. We are very pleased that H.R. 867 includes ^{provisions similar to} the Administration's proposal for this adoption bonus. ✓

However, we are ~~very~~ ^{slightly} concerned about the funding authority for this provision. H.R. 867 would authorize Congress to appropriate funds for paying the bonuses each year. We believe that it is important to assure the States that the funds will be available to them throughout the five years during which the bonuses will be paid, since we are asking them to make long-term commitments to increasing the number of adoptions. We are in agreement with CBO that the bonus program will be cost neutral or will even save funds. ^{We also support providing States with discretion to use the bonus funds in a manner that} We hope to work with you to develop language to ^{assume} ~~provide~~ funding to the States for this key provision to be used for a broad range of purposes.

Note: CBO has no official position with respect to this provision. ^{between we have designed our program that they determine best supports the needs of children in the foster care system.}

There are only two provisions in H.R. 867 which raise ~~some serious~~ concerns. However, we believe that we can work with the sponsors and the Subcommittee to modify these provisions to achieve our shared goal of permanency and health and safety for the child.

Requiring Initiation of Proceedings to Terminate Parental Rights

Section 5 of H.R. 867 establishes certain circumstances under which State agencies would be required to seek the termination of parental rights of a child who is in foster care. The Administration supports the goal of ensuring that timely permanency decisions are made for

**TREASURY COMMENTS RE HHS PROPOSED TESTIMONY ON HR. 867
ADOPTION PROMOTION ACT OF 1997**

Comments from the Office of the Assistant Secretary (Economic Policy):

The testimony discusses the Adoption Promotion Act of 1997 (Camp and Kennelly), which proposes several changes to federal directives to states regarding foster care and permanency decisions, including adoption. Several of these changes mirror proposals in the Adoption 2002 report of IIIIS; the testimony obviously supports these. However, the testimony makes some recommendations that we believe could work against the principle that the health and safety of the child should be the paramount consideration.

(1) On page 5 the testimony states interest in developing language that provides states flexibility to protect the rights of non-offending parents in cases where only one parent has harmed a child. To make sure any language that is provided protects the child adequately, we suggest the testimony include a phrase such as "when this does not raise concerns about the child's health or safety".

(2) On page 9, the testimony takes issue with the proposal that establishes specific circumstances under which state agencies would be required to seek from a state court termination of parental rights for a child in foster care. The testimony recommends conditioning a parental rights termination requirement on a prior permanency planning decision that adoption is the goal for the child. We find this framework to be inconsistent with the health and safety principle because it appears to allow the health and safety consideration to be only one among many considerations in requiring parental rights termination. We suggest an alternative framework: make the termination requirement decision first, based solely on health and safety considerations; then move to the permanency planning decision that leads to adoption or other permanent arrangement based upon the rights termination decision. If the process is structured this way, the permanency planning considers the participation of parents only if there is no threat to health and safety.

Total Pages: 23

LRM ID: MDH46

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, April 1, 1997


SPECIAL

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: *W. H. D.*
Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148

SUBJECT: Testimony on HR867 Adoption Promotion Act of 1997 

DEADLINE: Noon Thursday, April 3, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is HHS testimony for an April 8th hearing before the House Human Resources Subcommittee on H.R. 867. HHS has requested that OMB provide it with clearance to transmit its testimony to the Subcommittee by Thursday, April 3rd.

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DRAFT

Mr. Chairman and Members of the Subcommittee,

I am pleased to appear before you today to discuss the Adoption Promotion Act of 1997. This legislation would further our efforts to ensure the safety, permanency and well-being of children in the child welfare system and closely mirrors the goals set forth in our *Adoption 2002* proposal. On behalf of the Administration, I would like to commend the members of this Subcommittee and the bill's chief sponsors, Representatives Camp and Kennelly, for your interest in and dedication to improving child welfare services. The bipartisan Congressional attention and support being given to these issues in both the House and the Senate, coupled with the reforms and innovative practices being undertaken around the country, present us with an unprecedented opportunity to make a real difference in the lives of some of America's most vulnerable children.

The President's Adoption Initiative

President Clinton is committed to "giving the children waiting in our Nation's foster care system what every child in America deserves -- loving parents and a healthy, stable home." In his December directive on adoption to federal agencies, the President directed IHHS to conduct wide consultations and report to him with specific recommendations on strategies to move children more quickly from foster care to permanent homes and to double the annual number of adoptions and other permanent placements over the next five years.

In response to the directive, the Department developed the report *Adoption 2002*, which

reflects the bipartisan interest in and commitment to promoting adoption and strengthening permanency planning for children in the public child welfare system. To prepare this report, the Department consulted with state and local government officials, child welfare professionals, policy experts, advocates, and foster and adoptive parents at the national, State and local levels.

Through this process of consultation, we heard about many of the barriers to expediting permanency for children in foster care. Delays in making timely permanency decisions result from high caseloads for judges and caseworkers; incorrect beliefs and outdated assumptions about the adoptability of children; the limited pool of permanent families for children with special needs; and the varied interpretation of the "reasonable efforts" requirement to reunify a child in foster care with his or her birth family before another goal, such as adoption, can be pursued for the child.

Our report outlines an agenda to help overcome these barriers and to accelerate the path to permanency for all waiting children in the public child welfare system. First, the report articulates a guiding set of principles centered on the needs of the child in order to give direction to the overall agenda. These principles include: that every child deserves a safe, permanent family; that the child's health and safety should be the paramount considerations in all placement and permanency planning decisions; and that foster care is a temporary situation -- it is not an appropriate place for children to grow up. It establishes unequivocally that the Federal goals for children in the child welfare system are safety, permanency, and well-being.

Our proposed agenda is multifaceted in order to address the broad range of barriers and challenges that exist in the child welfare system. The report presents strategies to establish, track, and meet State-by-State annual, numerical targets for adoptions and other permanent placements -- targets that will bring us to a national doubling of adoptions and permanent placements in the year 2002. To help States reach their targets, the Department commits to providing expanded technical assistance, rewarding States for incremental increases in adoption levels with per-child financial bonuses, and otherwise recognizing successful performance.

Perhaps most important, the report also addresses the need to clarify the "reasonable efforts" provision to make it clear that in determining whether and when to remove a child from his or her family and whether and when to reunify the family, Federal law requires that the child's health and safety shall be the paramount concern. It also calls for providing guidance to the States to emphasize that child health and safety must also be of primary concern when making decisions to terminate parental rights. Furthermore, the *Adoption 2002* report supports the passage of legislation that shortens the time before a child's first dispositional hearing -- the hearing in which a permanency decision is first made -- from 18 months to 12 months, and changes its name to "permanency planning hearing."

Provisions in H.R. 867

We are extremely pleased that H.R. 867, the Adoption Promotion Act, proposes many of

these critical actions, including clarifying reasonable efforts, earlier dispositional hearings, performance targets, technical assistance and adoption bonuses.

Reasonable Efforts

The Adoption Promotion Act would clarify current Federal statutory language ^{which requires} ~~requiring~~ that "reasonable efforts" be made both: (1) to prevent the unnecessary removal of children from their families; and (2) to reunify children, when possible, who have been placed in foster care with their families. The goal of the reasonable efforts provision is to prevent children from languishing unnecessarily in foster care and to avoid the unnecessary disruption of families.

We strongly support the legislation's goal of providing greater clarity about what is meant by "reasonable efforts." This change is critical because it has become clear that there is wide variation in how the current "reasonable efforts" law is interpreted by caseworkers, agencies, and judges around the country. It is essential that Federal law be unequivocal in establishing that the child's health and safety be of paramount concern in making placement and permanency decisions. ^{Additionally, necessary} We also believe it is ~~useful~~ to provide illustrations of the circumstances in which "reasonable efforts" may not be appropriate or required.

We also strongly support two other provisions of H.R. 867, recommended in the Adoption 2002 report, that would help children who cannot go home move more quickly towards permanent homes. First, we support the inclusion of statutory language requiring States to

make "reasonable efforts" to secure a permanent home for children in foster care when adoption or another permanent placement, rather than reunification, is established as a goal. Likewise, we support language that will clarify that States may concurrently work toward reunification and develop an alternative permanency plan, in the event that the child cannot safely be returned home.

We would, however, be interested in working with the Subcommittee to refine the legislative language used to achieve these objectives. In particular, we want to ensure that any list of circumstances be adequately described or defined and be considered illustrative, rather than all inclusive. We want to ensure that States retain the ability to make individualized case-by-case determinations. We also would want to ensure that the language provides the flexibility for states to protect the rights of non-offending parents in those cases where only one parent has harmed a child.

Earlier Dispositional Hearings

We applaud and endorse provisions that would change the timing and name of the initial dispositional hearings. We believe that renaming the hearings "permanency" hearings will send a signal that the purpose of these judicial reviews is to establish a definitive plan for permanency for children in foster care. Requiring that these hearings be held within 12 months of the placement of a child in foster care, rather than the current 18 months, will help to ensure more timely decision-making for all children in foster care. Implicit in this move to

more timely decision-making, however, is the expectation that services be provided from the moment that the child enters care.

Performance Targets

Section 8 of the bill reflects an interest in moving forward with the development of outcome measures and the broad dissemination of State-level data on key indicators. This interest in outcomes is consistent with the Government Performance and Results Act (GPRA) and is an area in which we have already undertaken work.

Consistent with the President's Executive Memorandum, the Department has committed to issue an annual State-by-State report, beginning in the Spring of 1999, on the Nation's progress in meeting the adoption goals. The annual report will provide State-by-State figures on key measures of success including not only the number of children in foster care who are adopted or placed in guardianship, but measures that reflect the experience of children in the child welfare system, such as the length of time in care and the timeliness of permanency decisions.

In addition, through the revised child and family services monitoring strategy that we have been piloting with States, we are asking States to use data submitted to AFCARS, as well as to the National Child Abuse and Neglect Data System (NCANDS), to help assess their

performance in achieving safety and permanency for children. Our approach is to help States assess their own performance, including strengths as well as deficiencies; to provide technical assistance; and to assist States to make ongoing changes and improvements. We believe that this approach, focusing on continuous improvement and tracking State performance over time, will prove more effective in achieving improved outcomes for children than a State ranking or rating system.

Technical Assistance

As reflected in *Adoption 2002*, the Administration believes that providing effective technical assistance to the States in a range of areas, including those mentioned in Section 10 of the bill, is critical to ensuring the success of our efforts to double the number of children who are adopted annually by the year 2002 and to improve the quality and timeliness of decision-making for all children in foster care. The President's budget for fiscal year 1998 requests \$10 million for technical assistance directed toward meeting the goals of the Adoption Initiative. We appreciate the sponsors' support of this request.

Adoption Bonus

The centerpiece of the President's Adoption Initiative is a proposal to provide States with a financial bonus when they succeed in increasing the number of children who are adopted each year. We believe that this is an example of common-sense government, as it not only

provides a concrete incentive to States for increasing the number of adoptions, but also pays for itself, with the cost of the bonuses offset by savings in foster care costs. We are very pleased that H.R. 867 includes the Administration's proposal for this adoption bonus.

However, we are very concerned about the funding authority for this provision. H.R. 867 would authorize Congress to appropriate funds for paying the bonuses each year. We believe that it is important to assure the States that the funds will be available to them throughout the five years during which the bonuses will be paid, since we are asking them to make long-term commitments to increasing the number of adoptions. We are in agreement with CBO that the bonus program will be cost neutral or will even save funds. We hope to work with you to develop language to guarantee funding to the States for this key provision to be used for a broad range of purposes.

There are only two provisions in H.R. 867 which raise some serious concerns. However, we believe that we can work with the sponsors and the Subcommittee to modify these provisions to achieve our shared goal of permanency and health and safety for the child.

Requiring Initiation of Proceedings to Terminate Parental Rights

Section 5 of H.R. 867 establishes certain circumstances under which State agencies would be required to seek the termination of parental rights of a child who is in foster care. The Administration supports the goal of ensuring that timely permanency decisions are made for

children who cannot return home. For those children for whom adoption has been established as a goal, filing for termination of parental rights or securing voluntary relinquishment of rights from the parents, is a key step in freeing children for adoption. However, if a goal other than adoption has been set, requiring termination of parental rights might not be in the best interest of the child.

Because it is the permanency goal for a child that should drive the decision to seek termination of parental rights, we would like to explore with you the development of an alternative proposal that would require States to move expeditiously to terminate parental rights once a judicial (permanency planning) determination has been made that adoption is the goal for a child. The Administration believes that this framework will serve children better than one that ties states' decisions to terminate parental rights to Federal standards regarding either the age of the child or the length of time that the child has spent in foster care.

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Notifying Foster Parent of Reviews and Hearings

We also have concerns with the provision in section 4, requiring that foster parents be given notification and an opportunity to be heard in reviews and hearings. We agree that foster parents play a key role in providing for the safety, permanency and well-being of children who have been removed from home. As the primary caregivers of children in out-of-home care, they have valuable firsthand knowledge that can help inform decisions made at administrative reviews and judicial hearings. However, we are concerned that the provision,

* * *

by providing foster parents legal standing as a party to the case, places these parents in a position incongruent with their role as temporary caregivers of children. This provision could result in the creation of unnecessary adversarial relationships between foster parents and biological parents and/or between foster parents and the State child welfare agency. The Department proposes to address through policy guidance, rather than legislation, the importance of assuring input from foster parents in case planning, administrative reviews and judicial hearings.

Finally, we wanted to share some additional information with the Subcommittee as you consider two other provisions in the bill.

Report and Recommendations on Kinship Care

Section 6 of the bill calls for the establishment of an advisory panel and the collection of additional information on relative or kinship care. As you know, relatives, other than parents, increasingly play a role in caring for children, both in informal caretaking relationships and in kinship foster care arrangements. In 1990, it is estimated that just over 2 percent of U.S. children (about 1.4 million) lived in a relative's household without a parent present.

However, only a small fraction of those children were in formal kinship foster care settings.

Congress recognized the important role of relatives when in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 it included a provision requiring the States to

consider giving preference to relatives as caretakers for children eligible to receive foster care maintenance payments and adoption assistance subsidies under Title IV-E of the Social Security Act. Given the increasing role that relatives are likely to play in caring for children in the future, it is critical that we improve our understanding of the role of kin in providing either a temporary or permanent home for children.

The Department has already begun important work in this area that will address some of your issues and may help guide future policy development. We will soon release the findings of a study that examined several national and State-level data sources to describe the characteristics of both informal kinship care arrangements and kinship foster care. Later this year, we will release the findings of a descriptive study of children placed in foster care with relatives. This study used interviews with State and county staff and reviews of case records in seven States to gather information on children in both kinship foster care and non-kinship foster care.

In addition, the Adoption and Foster Care Analysis and Reporting System (AFCARS) is now being implemented and has just begun to yield data improving our knowledge of children in foster care. While currently many States are not able to distinguish between relative and non-relative foster parents in their data, we do expect the data to improve over the next several years as States complete development of new automated child welfare information systems.

Finally, the Child Abuse Prevention and Treatment Act authorized funding demonstration

projects in the area of kinship care. We expect to fund demonstration grants in this area in the future to improve our knowledge of the role of relatives in ensuring children's safety and permanency. Possible areas of exploration include issues around licensing and training kinship care providers.

We hope you find this information useful as you explore ways to address this critical area. We will share with the Subcommittee the findings of these studies just as soon as they are finalized.

Expanding Use of the Federal Parent Locator Service

Section 7 of the bill addresses another proposal discussed in the *Adoption 2002* report, expanding the use of the Federal Parent Locator Service (FPLS). Currently, the FPLS is used by State child support enforcement officials. We propose to work with State child welfare and child support enforcement agencies to facilitate use of the FPLS to identify and locate absent parents of children in foster care. In this way, child welfare agencies may locate parents or other relatives who may be interested in providing a permanent home for a child in foster care. Even if an absent parent is unable to provide a home for the child, ruling out this alternative early in a child's placement will allow the agency and court to move expeditiously towards adoption or another permanent alternative. We believe that a legislative change in this area is not necessary because there is sufficient statutory authority to allow use of FPLS in child welfare cases.

Conclusion

On behalf of the Administration, I want to express our enthusiasm about the opportunity to enact bipartisan child welfare legislation during this Congress. Together we can work to improve significantly the lives of hundreds of thousands of children in our Nation's foster care system. Again, I commend the members of this Subcommittee for your leadership and I would be pleased to answer any questions you might have.

105th CONGRESS
1st Session

H. R. 867

To promote the adoption of children in foster care.

IN THE HOUSE OF REPRESENTATIVES

February 27, 1997

Mr. Camp (for himself, Mrs. Kennelly of Connecticut, and Mr. Shaw) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To promote the adoption of children in foster care.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Adoption Promotion Act of 1997".

(b) Table of Contents.--The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Clarification of the reasonable efforts required to be made before placing a child in foster care.
- Sec. 3. Earlier status reviews and permanency hearings.
- Sec. 4. Notice of reviews and hearings; opportunity of parties to be heard.
- Sec. 5. States required to initiate proceedings to terminate parental rights for certain children in foster care.
- Sec. 6. Report and recommendations on kinship care.
- Sec. 7. Use of parent locator service in termination of parental rights proceedings.
- Sec. 8. Reports on performance of States in protecting children.
- Sec. 9. Authority to approve more child protection demonstration projects.
- Sec. 10. Technical assistance.
- Sec. 11. Adoption bonus for States.
- Sec. 12. Effective date.

SEC. 2. CLARIFICATION OF THE REASONABLE EFFORTS REQUIRED TO BE MADE BEFORE PLACING A CHILD IN FOSTER CARE.

(a) In General.--Section 471(a)(15) of the Social Security Act (42

U.S.C. 671(a)(15)) is amended to read as follows:

“(15) (A) provides that--

“(i) except as provided in clauses (ii) and (iii), reasonable efforts shall be made--

“(1) before a child is placed in foster care, to prevent or eliminate the need to remove the child from the child's home; and

“(II) to make it possible for the child to return home;

“(ii) in a case involving aggravated circumstances (as defined by the State and approved by the Secretary) such as a case in which the child has been abandoned, tortured, chronically abused, or sexually abused, in which a parent of the child has been found by a court of competent jurisdiction to have engaged in conduct described in section 106(b)(2)(A)(xii) of the Child Abuse Prevention and Treatment Act, or in which the parental rights of a parent with respect to a sibling of the child have been terminated--

“(I) reasonable efforts of the type described in clause (i) of this subparagraph shall not be required to be made; and

“(II) if reasonable efforts of the type described in clause (i) of this subparagraph are not made or if the continuation of such efforts is determined to be inappropriate, reasonable efforts shall be made to place the child for adoption, with a legal guardian, or (if adoption or legal guardianship is determined not to be appropriate for the child) in some other planned, permanent living arrangement;

“(iii) in a case in which the continuation of reasonable efforts of the type described in clause (i) of this subparagraph is determined to be inappropriate, reasonable efforts of the type described in clause (ii)(II) shall be made; and

“(iv) reasonable efforts of the type described in clause (ii)(II) may be made concurrently with reasonable efforts of the type described in clause (i); and

“(B) in determining the reasonable efforts to be made in any case and in making such reasonable efforts, the child's health and safety shall be of paramount concern;”.

(b) Conforming Amendment.--Section 472(a)(1) of such Act (42 U.S.C. 672(a)(1)) is amended by inserting “for a child” before “have been made”.

SEC. 3. EARLIER STATUS REVIEWS AND PERMANENCY HEARINGS.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended--

(1) by striking “eighteen months after” and inserting “12 months after”; and

(2) by striking “dispositional” and inserting “permanency”.

SEC. 4. NOTICE OF REVIEWS AND HEARINGS; OPPORTUNITY OF PARTIES TO BE HEARD.

Section 475(5) of the Social Security Act (42 U.S.C. 675(5)) is amended--

- (1) by striking ``and'' at the end of subparagraph (C);
- (2) by striking the period at the end of subparagraph (D) and inserting ``; and''; and
- (3) by adding at the end the following:
 - ``(E) the foster parents (if any) of a child and any relative providing care for the child are provided with notice of, and an opportunity to be heard in, any review or hearing to be held with respect to the child.''

SEC. 5. STATES REQUIRED TO INITIATE PROCEEDINGS TO TERMINATE PARENTAL RIGHTS FOR CERTAIN CHILDREN IN FOSTER CARE.

Section 475(5) of the Social Security Act (42 U.S.C. 675(5)), as amended by section 4 of this Act, is amended--

- (1) by striking ``and'' at the end of subparagraph (D);
- (2) by striking the period at the end of subparagraph (E) and inserting ``; and''; and
- (3) by adding at the end the following:
 - ``(F) in the case of a child who has not attained 10 years of age and has been in foster care under the responsibility of the State for 18 months (after the date of the enactment of this subparagraph) of the most recent 24 months, the State shall initiate a proceeding to terminate the parental rights of the child's parents, unless--
 - ``(i) at the option of the State, the child is being cared for by a relative; or
 - ``(ii) a State court has determined that doing so would not be in the best interests of the child.''

SEC. 6. REPORT AND RECOMMENDATIONS ON KINSHIP CARE.

(a) Report.--

(1) In general.--The Secretary of Health and Human Services shall--

(A) not later than August 1, 1997, convene the advisory panel provided for in subsection (b)(1) and prepare and submit to the advisory panel an initial report on the extent to which children in foster care are placed in the care of a relative (in this section referred to as ``kinship care''); and

(B) not later than April 1, 1998, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a final report on the matter described in subparagraph (A), which shall--

- (i) be based on the comments submitted by the advisory panel pursuant to subsection (b)(2) and other information and considerations; and
- (ii) include the policy recommendations of the Secretary with respect to the matter.

(2) Required contents.--Each report required by paragraph (1) shall--

- (A) include, for each State, information on--
 - (i) the policy of the State regarding kinship care;
 - (ii) the characteristics of the kinship care providers (such as age and income);
 - (iii) the characteristics of the household of such providers (such as number of other

persons in the household and family composition);

(iv) how much access to the child is afforded to the parent from whom the child has been removed;

(v) the cost of, and source of funds for, kinship care (including any subsidies such as medicaid and cash assistance);

(vi) the goal for a permanent living arrangement for the child and the actions being taken by the State to achieve the goal;

(vii) the services being provided to the parent from whom the child has been removed; and

(viii) the services being provided to the kinship care provider; and

(B) specifically note the circumstances or conditions under which children enter kinship care.

(b) Advisory Panel.--

(1) Establishment.--The Secretary of Health and Human Services, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate, shall convene an advisory panel which shall include parents, foster parents, former foster children, State and local public officials responsible for administering child welfare programs, private persons involved in the delivery of child welfare services, judges, and academic experts.

(2) Duties.--The advisory panel convened pursuant to paragraph (1) shall review the report prepared pursuant to subsection (a), and, not later than February 1, 1998, submit to the Secretary comments on the report.

SEC. 7. USE OF PARENT LOCATOR SERVICE IN TERMINATION OF PARENTAL RIGHTS PROCEEDINGS.

Section 453 of the Social Security Act (42 U.S.C. 653) is amended--

(1) in subsection (a)--

(A) by striking "or enforcing child custody or visitation orders" and inserting "enforcing child custody or visitation orders, or terminating parental rights"; and

(B) in paragraph (1)--

(i) by striking the comma at the end of subparagraph (C) and inserting "; or"; and

(ii) by inserting after subparagraph (C) the following:

"(D) who has or may have parental rights with respect to a child,"; and

(2) in subsection (c)--

(A) by striking the period at the end of paragraph

(3) and inserting "; and"; and

(B) by adding at the end the following:

"(4) a State agency that is administering a program operated under a State plan under subpart 1 of part B, or a State plan approved under subpart 2 of part B or under part E."

SEC. 8. REPORTS ON PERFORMANCE OF STATES IN PROTECTING CHILDREN.

The Secretary of Health and Human Services, in consultation with the American Public Welfare Association, the National Governors' Association, and child advocacy organizations, shall--

(1) develop a set of outcome measures (including length of stay in foster care, number of foster care placements, and number of adoptions) that can be used to assess the performance of States in operating child protection programs pursuant to parts B and E of title IV of the Social Security Act to ensure the safety of children;

(2) to the maximum extent possible, the outcome measures should be developed from data available from the Adoption and Foster Care Analysis and Reporting System;

(3) develop a system for rating the performance of States with respect to the outcome measures, and provide to the States an explanation of the rating system and how scores are determined under the rating system;

(4) prescribe such regulations as may be necessary to ensure that States provide to the Secretary the data necessary to determine State performance with respect to each outcome measure, as a condition of the State receiving funds under part E of title IV of the Social Security Act;

(5) on October 1, 1998, and annually thereafter, prepare and submit to the Congress a report on the performance of each State on each outcome measure, which shall examine the reasons for high performance and low performance and, where possible, make recommendations as to how State performance could be improved.

SEC. 9. AUTHORITY TO APPROVE MORE CHILD PROTECTION DEMONSTRATION PROJECTS.

Section 1130(a) of the Social Security Act (42 U.S.C. 1320a-9(a)) is amended by striking "10" and inserting "15".

SEC. 10. TECHNICAL ASSISTANCE.

(a) In General.--The Secretary of Health and Human Services shall provide technical assistance to assist States and local communities to reach their targets for increased numbers of adoptions and, to the extent that adoption is not possible, alternative permanent placements, for children in foster care.

(b) Limitations.--The technical assistance provided under subsection (a) shall support the goal of encouraging more adoptions out of the foster care system, when adoptions promote the best interests of children, and shall include the following:

(1) The development of best practice guidelines for expediting termination of parental rights.

(2) Models to encourage the use of concurrent planning.

(3) The development of specialized units and expertise in moving children toward adoption as a permanency goal.

(4) The development of risk assessment tools to facilitate early identification of the children who will be at risk of harm if returned home.

(5) Models to encourage the fast tracking of children who have not attained 1 year of age into foster and adoptive placements.

(c) Limitations on Authorization of Appropriations.--To carry out this section, there are authorized to be appropriated to the Secretary of Health and Human Services not to exceed \$10,000,000 for each of fiscal years 1998 through 2000.

SEC. 11. ADOPTION BONUS FOR STATES.

Part E of title IV of the Social Security Act (42 U.S.C. 670-679) is amended by inserting after section 473 the following:

``SEC. 473A. ADOPTION BONUS.

``(a) Grant Authority.--To the extent of available appropriations, the Secretary shall make a grant to each State, for each fiscal year for which the State is a bonus-eligible State, in an amount equal to the adoption bonus, and shall make the grant in the immediately succeeding fiscal year.

``(b) Bonus-Eligible State.--A State is a bonus-eligible State for a fiscal year if--

``(1) the State has a plan approved under this part for the fiscal year;

``(2) the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year;

``(3) the State is in compliance with subsection (c) for the fiscal year; and

``(4) the fiscal year is any of fiscal years 1998 through 2002.

``(c) Data Requirements.--

``(1) In general.--A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary the data described in paragraph (2) for fiscal year 1997 (or, if later, the fiscal year that precedes the 1st fiscal year for which the State seeks a grant under this section) and for each succeeding fiscal year.

``(2) Determination of numbers of adoptions.--

``(A) Determinations based on afcars data.--Except as provided in subparagraph (B), the Secretary shall determine the numbers of foster child adoptions and of special needs adoptions in a State during each of fiscal years 1997 through 2002, for purposes of this section, on the basis of data meeting the requirements of the system established pursuant to section 479, as reported by the State in May of the fiscal year and in November of the succeeding fiscal year, and approved by the Secretary by April 1 of the succeeding fiscal year.

``(B) Alternative data sources permitted for fiscal year 1997.--For purposes of the determination described in subparagraph (A) for fiscal year 1997, the Secretary may use data from a source or sources other than that specified in subparagraph (A) that the Secretary finds to be of equivalent completeness and reliability, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

``(3) No waiver of afcars requirements.--This section shall not be construed to alter or affect any requirement of section 479 or any regulation prescribed under such section with respect to reporting of data by States, or to waive any penalty for failure to comply with the requirements.

``(d) Adoption Bonus.--

``(1) In general.--Except as provided in paragraph (2), the adoption bonus payable to a State for a fiscal year under this section shall be equal to the sum of--

``(A) \$4,000, multiplied by amount (if any) by which the number of foster child adoptions in the State during the fiscal year exceeds the base number of foster child adoptions for the State for the fiscal year; and

``(B) \$2,000, multiplied by the amount (if any) by which the number of special needs adoptions in the State during the fiscal year exceeds the base number of special needs adoptions for the State for the fiscal year.

“(2) Pro rata adjustment if insufficient appropriations.-- If the total amount of adoption bonuses otherwise payable under this section in a fiscal year exceeds the amount available for grants under this section for the fiscal year, the adoption bonus otherwise payable to a State under this section in the fiscal year shall be reduced by the amount which bears the same ratio to the excess as the adoption bonus otherwise payable to the State under this section in the fiscal year bears to the total amount of adoption bonuses otherwise payable under this section in the fiscal year.

“(e) 2-Year Availability of Bonus Payments.--Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the succeeding fiscal year.

“(f) Limitations on Use of Bonus Payments.--A State shall not expend an amount paid to the State under this section except to provide to children receiving foster care maintenance payments or adoption assistance payments under this part any service (including post adoption services) that may be provided under part B. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under section 474.

“(g) Definitions.--As used in this section:

“(1) Foster child adoption.--The term ‘foster child adoption’ means the final adoption of a child who, at the time of adoptive placement, was in foster care under the supervision of the State.

“(2) Special needs adoption.--The term ‘special needs adoption’ means the final adoption of a child for whom an adoption assistance agreement is in effect under section 473.

“(3) Base number of foster child adoptions.--The term ‘base number of foster child adoptions for a State’ means, with respect to a fiscal year, the largest number of foster child adoptions in the State in fiscal year 1997 (or, if later, the 1st fiscal year for which the State has furnished to the Secretary the data described in subsection (c)(2)) or in any succeeding fiscal year preceding the fiscal year.

“(4) Base number of special needs adoptions.--The term ‘base number of special needs adoptions for a State’ means, with respect to a fiscal year, the largest number of special needs adoptions in the State in fiscal year 1997 (or, if later, the 1st fiscal year for which the State has furnished to the Secretary the data described in subsection (c)(2)) or in any succeeding fiscal year preceding the fiscal year.

“(h) Limitations on Authorization of Appropriations.--

“(1) In general.--For grants under this section, there are authorized to be appropriated to the Secretary not to exceed a total of \$108,000,000 for fiscal years 1999 through 2003.

“(2) Availability of appropriations.--Amounts appropriated under paragraph (1) are authorized to remain available until expended, but not after fiscal year 2003.’’.

SRC. 12. EFFECTIVE DATE.

(a) In General.--The amendments made by this Act shall take effect on October 1, 1997.

(b) Delay Permitted if State Legislation Required.--In the case of a State plan under part B or E of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of the failure of the plan to meet such additional requirements

before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

<all>

PRESIDENT CLINTON RECEIVES "ADOPTION 2002" REPORT

February 14, 1997

President Clinton, joined by the First Lady and more than a dozen children and parents at different stages in the adoption process, will receive a report today from the Department of Health and Human Services that represents a detailed action plan to meet his goal to double, by the year 2002, the number of children in the foster care system who are adopted or permanently placed each year. In his radio address to the nation on December 14, 1996, President Clinton directed Secretary Shalala to report back to him with specific recommendations to move children more rapidly from the foster care system to safe, permanent homes. Today's "Adoption 2002" report is in answer to that directive.

and takes it's name from his goal

In 1995, according to the Department of Health and Human Services, there were approximately 450,000 children in the foster care system, 100,000 of whom were eligible for adoption. If that 100,000 only 20,000 children were adopted in 1995, and 7,000 were placed in permanent custodial situations. The President's goal is to double, by 2002, the number of children adopted or permanently placed each year -- increasing the number of children adopted in 2002 to 40,000 and the number placed in permanent custodial situations to 14,000.

which takes it's name from the goal the focus outlined had a goal of

Existing barriers to expediting the placement of children from foster care to permanent homes include delays in the court process, incorrect or outdated assumptions about the adoptability of children, the limited pool of families for children with special needs and the varied interpretation of the "reasonable efforts" requirement to reunify a child in foster care with his or her birth family before another goal, such as adoption, can be pursued for the child.

Today's report includes a series of ambitious legislative and administrative changes that will help states set and meet urgent new adoption targets. Detailed fact sheets on the report are attached, as are brief bios on the parents and children joining the President and First Lady in the Oval Office. A fact sheet on the President's accomplishments in the area of facilitating adoption is also attached. Assistant Secretary of Health for xx xx Olivia Golden will present the report to the President.

the Ad.

The program for the event is as follows:

Goal - in year 2002 for that #

The President In his remarks upon receiving the tThe report is in answer to the
President's charge to Secretary Shalal

**FIRST LADY HILLARY RODHAM CLINTON
INTRODUCTION OF DEANNA COLLINS
FEBRUARY 14, 1997**

Over the years, I've met many families created by adoption. I have talked with men and women who have adopted infants, single moms who have adopted siblings, and couples who have opened their homes and hearts to teenagers with special needs. Each of these families shared with me their joy of finding each other. They told me what a transforming experience it was to finally know the love of a mother, a father, a sibling, or a child.

And I have had the opportunity of witnessing such a transformation firsthand. In November 1995, 13-year old Deanna came to the White House to help us recognize National Adoption Month. She touched all of our hearts as she described what it was like to live in a group home and shared her hope of being adopted. Deanna said she wanted to be adopted because then she "would have a place to call home. I would have a room that I could call my room. I would have a family that I could love and would love me back."

Soon after her visit to Washington, Deanna found a permanent, loving family. When I visited her in Kansas City this summer, I almost didn't recognize her. She had grown into a radiant, confident young woman. Deanna Collins, I am very proud to welcome you back to the White House.

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**FIRST LADY HILLARY RODHAM CLINTON
REMARKS FOR RECEPTION OF ADOPTION 2002 REPORT
THE WHITE HOUSE
FEBRUARY 14, 1997**

Welcome to the White House and Happy Valentine's Day. I am delighted that on this day for celebrating all kinds of love, we are gathered to announce a plan that can bring the love of a permanent family to the hundreds of thousands of children waiting in our foster care system.

Two months ago, the President directed Health and Human Services Secretary Donna Shalala to investigate the barriers that keep so many of our children in the limbo of foster care. He asked her to report to him with specific recommendations on how best to move children more rapidly from foster care to permanent homes, and on how to meet a national goal of doubling the number of children placed annually in permanent homes by the year 2002. In a few moments, Olivia Golden, acting assistant secretary of health and human services, will present her department's findings to the President.

I am very impressed by the hard work that went into this report. It is based on extensive interviews, surveys, and consultations with placement agencies, adoption and child welfare advocates, and social workers nationwide. I am particularly pleased that careful attention was paid to the thoughts and observations of adoptive and foster parents because they know better than anyone the strengths and shortcomings of our system.

This report makes it very clear that foster care should never be a permanent solution. No child should grow up in foster care. Children deserve prompt, efficient decision-making from the adults who serve them. They deserve schedules for permanent placement that respect their developmental needs. And they deserve federal leadership to make that happen.

Ensuring the safety and timely placement of a child with a permanent, loving family should be the mission of our foster care system. But for too many years, this mission has been obscured as too many children have literally grown up or spent the majority of their childhoods in the system. They have led transient lives, moving from one foster family to the next, experiencing few constants but growing case files and dreams for permanent families.

There are many reasons for this situation. As an attorney and child advocate, I have experienced firsthand ... [anecdote].

We cannot afford these delays. In recent years we have learned much about the tremendous influence adults caring for children in their earliest years can have

on their intellectual, neurological, and emotional development. Children who have adults to talk to them, read to them, and make them feel secure and loved throughout their earliest years will thrive. Those growing up without these steady influences most likely will not.

That is why steps to secure permanent, safe, and loving homes for children -- whether they are with their biological families or others -- should begin as soon as a child enters foster care, not after 4 days or 5 months or 6 years of shuttling from placement to placement.

We have already witnessed important steps to remedy this situation. Two years ago, the President and Congress made it illegal to deny or delay an adoption simply because the adoptive parents and children were not of the same race. Last year, they strengthened that legislation. The President also signed a \$5,000 tax credit for families who adopt. Families who adopt children with special needs can receive \$6,000.

Decorating the Oval Office today are valentines created by some 600 of Iowa's waiting foster children. Each valentine, sponsored by the Iowa Citizen's Foster Care Review Board, tells the story of a child waiting to be adopted. The paper hearts list the age the child came into the foster care system, the age they became free for adoption and the number of days they have been waiting for a family.

Every year these valentines are placed on trees at the Iowa State Capitol. This Valentine's Day, the children decided to send their valentines to the White House, as well. Some of them sent letters to accompany their valentines, letters such as this one: "Dear President: My name is Raleigh. I am 12, I live in Iowa. I like to play football and basketball. I've been waiting 8 years for an adoptive family. I am hoping for a family with pets, a brother and a sister and nice parents."

Let's all work together so that for Raleigh and the thousands of other children waiting in foster care, their dreams will soon come true.

Now let me introduce Acting Assistant Secretary of Health and Human Services Olivia Golden, who will tell us more about today's report.

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EXECUTIVE SUMMARY

Adoption 2002 responds to President Clinton's Executive Memorandum and takes its name from one of its central goals -- to double by the year 2002 the number of children adopted or placed in other permanent homes each year. On December 14, 1996, the President directed the Secretary of Health and Human Services to conduct wide consultations and report to him with specific recommendations for strategies to move children more quickly from foster care to permanent homes and to meet the goal of at least doubling adoptions and other permanent placements over the next five years.

The Department developed *Adoption 2002* as a blueprint for bipartisan Federal leadership in adoption and other permanency planning for children in the public child welfare system. To prepare this report, the Department of Health and Human Services consulted with child welfare professionals, policy experts, advocates, and foster and adoptive parents at the national, state and local levels. *Adoption 2002* first examines the existing barriers to expediting the placement of children from foster care to permanent homes. Delays in making timely permanency decisions result from high caseloads for judges and caseworkers; ~~incorrect beliefs and outdated~~ ^{misguided judgments} ~~assumptions held by child welfare staff~~; ^{incorrect assumptions} the limited pool of permanent families for children with special needs; and the ~~undefined~~ and unclear legal requirement that States make "reasonable efforts" to reunify a child in foster care with his or her birth family before another goal, such as adoption, can be pursued for the child. ^{varied interp. of the pre req. of the} ~~undefined ambiguity of the~~

Adoption 2002 outlines an agenda to help overcome these barriers and to accelerate the path to permanency for all waiting children in the public child welfare system. First, the report enunciates a guiding set of principles centered on the needs of the child to give direction to the overall agenda. These principles include that every child deserves a safe, permanent family; that the child's health and safety should be the paramount considerations in all placement and permanency planning decisions; and that foster care is a temporary situation -- it is not an appropriate place for children to grow up. *Adoption 2002* establishes unequivocally that the federal goals for children in the child welfare system are safety and permanency.

The *Adoption 2002* agenda is multifaceted to address the range of barriers and challenges that exist in the child welfare system. The report presents strategies to establish, track and meet State-by-State annual, numerical targets for adoptions and other permanent placements -- targets that will bring us to a national doubling of adoptions and permanent placements in the year 2002. To help States reach their targets, the Department commits to providing expanded technical assistance, rewarding States for incremental increases in adoption levels with per-child financial bonuses, and otherwise recognizing successful performance. The bonus system proposed in *Adoption 2002* is an example of common-sense government, as it not only provides an incentive for increasing the number of adoptions, but also pays for itself, with the cost of the bonuses offset by savings in foster care costs. *Adoption 2002* also includes a proposal to establish competitive grants available to States for dismantling barriers to permanency.

In addition to providing incentives to States to meet new targets, *Adoption 2002* outlines ways in which the Federal government can assume leadership in breaking down barriers to permanency

for children in foster care. The Department will issue strong guidance on the implementation of law, ^{and strengthen} ~~signed by President Clinton~~ that makes it illegal to deny or delay the placement of a child based on race or ethnicity, and ^{will also} ~~it~~ will outline the penalties for non-compliance.

Perhaps most important, while working with Congress on its legislative proposals that seek to define the "reasonable efforts" provision, the Department will issue guidance that clarifies its meaning. This clarification will make it clear that in determining ^{whether and} when to remove a child from his or family and when to reunify the family, federal law requires that the child's health and safety shall be the paramount concern.

The Department also will issue model guidelines for state legislation ^{whether and} ~~to ensure~~ ^{which emphasize} that the child's health and safety is the paramount concern in decisions to terminate parental rights. In addition, the Department commits to exploring alternative permanency options for children for whom adoption is not possible. Furthermore, the *Adoption 2002* urges that the Administration seek legislation that shortens the time before a child's first disposition hearing -- the hearing in which a permanency decision is first made -- from 18 months to 12 months and changes its name to a "permanency planning hearing."

Information gained by the Department in developing the details of the *Adoption 2002* agenda will form the basis of the public awareness campaign that the President directed the Secretary of Health and Human Services to undertake, in cooperation with other heads of Federal Departments of Agencies, as a part of his Executive Memorandum. The strategies outlined in *Adoption 2002*, coupled with a strong public information campaign and joined by efforts by State and local officials and by community, business and religious leaders, will ensure that we live up to the President Clinton's call that "no child should be trapped in the limbo of foster care; no child should be uncertain about what the word 'family' or 'parent' or 'home' mean, particularly when there are open arms waiting to welcome these children into safe and strong households where they can build good, caring lives." (12/14/96)

Guiding Principles for the Adoption Initiative

Based on a firm understanding of the challenges that face children who await permanence in the child welfare system, the Department will pursue the President's goals in a manner which focuses on changing the outcomes for those children who are hardest to place; improves decision-making for children currently entering the system; and reinforces best practices throughout the system. The Federal goals for children in the child welfare system are safety, permanency and well-being. Based on the extensive consultation, a set of principles has emerged to provide a foundation for important work of the Adoption 2002 Initiative.

- Every child deserves a safe, permanent family.
- The child's health and safety should be the paramount considerations in all placement and permanency planning decisions.
- ➔ ● Children in foster care deserve prompt, timely decisionmaking from the adults serving them. The timeframes for placement and permanency planning decisions must be respectful of the child's developmental needs and the child's sense of time.
- Permanency planning efforts for children should begin as soon as a child enters foster care and should be expedited by the provision of services to families.
- Foster care is a temporary situation; it is not an appropriate place for children to grow up.
- Permanency cannot be achieved for children without the partnership of child welfare agencies, the courts and other service-providing agencies (e.g., housing, mental health care, and substance abuse treatment).
- Adoption is one of a number of pathways to permanency which also includes reunification, guardianship, and permanent placement with relatives.
- Adoptive families often require services and supports long after legalization to meet the ongoing challenges of caring for their children.
- Communication and information sharing about effective strategies, innovative programs, and collaboration opportunities is critical to the success of this initiative.
- The diversity and strengths of all communities must be tapped to create permanency for children.

WHITE HOUSE PROPOSED LANGUAGE ON REASONABLE EFFORTS
ADOPTION 2002 REPORT

- **Clarifying "Reasonable Efforts":** (d) A proposal to clarify the "reasonable efforts" requirement and other law as it relates to permanency and safety;

PROPOSED ACTION STEPS

To ensure the protection of children by clarifying or proposing changes to legislation regarding "reasonable efforts," reunification of children with their families, and termination of parental rights:

- The Department will issue administrative guidance within 60 days that clarifies the "reasonable efforts" provision of Title IV-E of the Social Security Act. This clarification will advance the goal of giving every child in our nation's public child welfare system a safe and permanent home by making it clear that in determining whether and when to remove a child from his or her family, whether and when to reunify the family, and whether and when to seek an alternative permanency plan, the child's health and safety shall be the paramount concern.
- Members of Congress have developed a number of proposals to address this issue, and the Department will work with them to achieve statutory changes reinforcing this administrative clarification.
- The Department in particular will work with Congress to more clearly and appropriately ~~define~~ ^{illustrate} the circumstances in which "reasonable efforts" to reunify a family ~~should not be undertaken~~. The Child Abuse Prevention and Treatment Act (CAPTA), as amended by Congress in 1996, already requires that, as a condition for receiving funds under the Basic State Grant Program:

1) the State may not mandate the reunification of a surviving child with parents found to have aided, abetted or committed:

- murder
- voluntary manslaughter
- serious bodily injury to their children; and

2) conviction of any of the above mentioned felonies constitutes grounds for the termination of parental rights.

The Department will work towards amending the Title IV-E provision of the Social Security Act ~~by incorporating an expanded version of this list of circumstances in which reunification is not appropriate.~~ ^{to similarly illustrate to the States the} _{may be}

may be

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are clear

may not be appropriate or required.

- The Department will also issue model guidelines for State legislation that will advance the goal of giving every child in our nation's public child welfare system a safe and permanent home by making it clear that in determining whether and when to terminate parental rights, the child's health and safety should be the paramount concern.

DISCUSSION

Since 1980, Federal law has required that "reasonable efforts" be made both: 1) to prevent the unnecessary removal of children from their families; and 2) to reunify children, when possible, who have been placed in foster care, with their families. The goal of this provision was to reduce the phenomenon of children languishing unnecessarily in foster care. The Federal "reasonable efforts" requirement has been both heralded as being essential to effective child welfare practice and criticized for being unclear and a barrier to child safety and permanence.

*to avoid the unacc.
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parental
rights.*

Consultation with the field revealed that there is wide variation in how current "reasonable efforts" law is interpreted by caseworkers, agencies, and judges around the country. There was a strong consensus that some clarification of the reasonable efforts requirements is needed to allow for better, more timely decision making in individual cases, although there were divergent opinions on what degree of specificity would be useful from the Federal government.

*may
stronger*

The proposals outlined above will send a clear message that Federal law requires that the health and safety of children shall be the paramount concern in making decisions about whether and when to remove children from families, whether and when to reunify the families, and whether and when to seek alternative permanency plans. They also will make clear to the States the Administration's view that the child's health and safety should be paramount in determining whether and when to terminate parental rights.

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I. INTRODUCTION

The Presidential Directive on Adoption

On December 14 1996, President Clinton issued a directive to the Secretaries of Health and Human Services, Treasury, Labor, and Commerce and the Director of the Office of Personnel Management to promote efforts to increase the number of children who are adopted or permanently placed each year, to move children more rapidly from foster care to permanent homes, to increase awareness about the tens of thousands of children waiting for families, and to encourage all Americans to consider the rewards and responsibilities of adoption. (See Appendix A for the text of the directive.) The directive focuses most specifically on children in foster care who, often because of abuse or neglect, cannot return home safely. The President's attention to this issue reflects the urgent need to find safe, permanent, loving homes for our Nation's most vulnerable citizens.

The President directed the Department of Health and Human Services (the Department) to recommend steps that will double, over the next five years, the number of children from the foster care system who are adopted or placed in other permanent homes. This ambitious goal would mean an increase in the annual number of adoptions from 20,000 to 40,000 and an increase in other forms of permanent placements from 7,000 to 14,000, resulting in 54,000 children achieving permanency in the year 2002. See
Insert
A

The President also identified key ^{issues} ~~issues~~ to be examined in meeting the ~~target~~ goal, ^{including} ~~Strategies~~ ~~identified included:~~ working with Congress to make changes in Federal law; working with States to eliminate barriers to finding children permanent placements; setting annual numerical targets; rewarding successful performance; and raising public awareness. Recognizing the need to move quickly, the directive called upon the Department, in consultation with State and civic leaders, to prepare a report within 60 days. This report recommends actions to be taken to move children more rapidly from foster care to permanent homes and to meet the goal of placing 54,000 children from foster care, in the year 2002, in adoptive homes or other permanent placements.

The Department Responds to the Directive

Consistent with the directive, the Department undertook an intensive consultation process, which included:

- Mailing copies of the directive to over 2,000 adoption and foster care professionals, placement agencies, child welfare advocates, adoptive and foster parents, and national organizations. Recipients were invited to submit comments on specific steps that can be taken to implement the directive. Over 200 thoughtful responses were received via mail, fax and the internet. (See Appendix B for a list of the respondents.)
- Conducting consultations with a wide range of organizations and individuals, ^{included} ~~included~~ were line workers, program managers, administrators from the eight

INSERT A

The President directed the Secretary of the Department of Health and Human Services to report to him with specific recommendations for strategies that move children more quickly from foster care to permanent homes and at least to double, by the year 2002, the number of children who are adopted or permanently placed each year. This goal translates into an increase in adoptions and permanent placements from 27,000 in 1996 to 54,000 in 2002. If we are successful at implementing these and other strategies at the federal, state and local levels, it may be possible for even more children to secure adoptive homes or other permanent placements.

States with the largest foster care populations, child welfare administrators and staff from large urban areas, representatives of Tribes and Tribal Organizations, and representatives from national child welfare and adoption-related organizations, advocacy groups, intergovernmental organizations, and several foundations. (The questions that guided the consultations and the list of individuals and organizations consulted appear in Appendix C.)

- ^{Conducting} Consultations ~~were conducted~~ with key congressional staff and ^{receiving} legislative proposals ~~were carefully reviewed~~.

In addition, each of the ten Regional Offices conducted a series of focus groups with key State and local adoption advocates and child welfare professionals. Over 300 people were contacted through this regional outreach process.

This broad based consultation with a wide range of professionals, policy experts, advocates, foster and adoptive parents, and other interested individuals, ~~provided the Department with some of the best thinking from the field allowed our examination of strategies and issues to be grounded in the daily experiences of agency staff.~~ The Department gained many useful ideas and suggestions through this consultation process. Many of these ideas are reflected in the recommendations outlined in this report. (A more complete summary of themes and issues raised during the Department's external consultation process appears in Appendix D.)

→ grounded the Department's examination of strategies and issues in the ~~the~~ daily experiences of participants in the ~~adoption~~ child welfare system.

→ These consultations ~~process~~ will greatly inform the public awareness campaign that the President also directed the Secretary of HHS to undertake, forming the foundation of information upon which the campaign can be built.

II. OVERVIEW

Subsequent sections of this report have been organized in the following manner:

III. ~~ADOPTION IN THE CONTEXT OF THE CHILD WELFARE SYSTEM~~ ISSUES AND CHALLENGES IN

A discussion of some of the issues and challenges in doubling the number of adoptions and in overcoming barriers to permanency. ~~This section also places the adoption-specific issues in the broader context of the challenges facing the child welfare system.~~

IV. RECOMMENDATIONS FOR ACTION

A restatement of each of the elements in the President's directive (in *italics* and preceded by a "♦") and the Department's recommended action steps. Recommendations include possible legislative or regulatory changes.

~~Accompanying each element are recommended action steps, a brief discussion of critical issues, and major issues raised in consultations.~~

V. CONCLUSION

Final thoughts on the report and how the process of broad consultation has helped to energize and mobilize the field around the shared goal of helping children find stable, permanent, nurturing families.

III. ADOPTION IN THE CONTEXT OF THE CHILD WELFARE SYSTEM

The President's directive focuses attention on a special group of children waiting to be adopted -- the approximately 100,000 children in the public foster care system who cannot return safely to their own parents and homes. These children waiting for adoption have often been in the foster care system for an extended period of time. They are often "children with special needs," which means that they have characteristics that make them more difficult to place. "Children with special needs" are older children (not infants), children of minority heritage¹, children who are part of a sibling group, or children who have physical, intellectual or emotional disabilities. Effective strategies to move these children to permanence must be grounded in an understanding of the broader child welfare system and the barriers that face children, especially children with special needs, waiting for permanent placement.

homes

Should the guiding principles be first?

A Continuum of Child Welfare Services

The child welfare system is designed to keep children safe and to help them achieve permanence. The concept of permanence is best defined as a stable, legally-sanctioned relationship with caring, protective adults. This may be achieved in a child's birth family, but, for many children in foster care, it may occur through adoption or guardianship. Children attain permanence in a more timely manner when sound child welfare practices are deployed from the time the child initially comes to the attention of the child welfare system. In order to meet the individualized needs of children and families, a range of child welfare services are required, including:

- Community-based prevention programs that support adults in their roles as parents to help resolve problems before they lead to children being abused or neglected;
- Effective child abuse and neglect investigation and risk assessment procedures that allow for appropriate intervention;
- Services for families who are in crisis, but can be safely strengthened and maintained through the provision of intensive, but time-limited, services;
- Foster care services that provide a temporary safe home for children and services to their families, while parents resolve their crises and agencies and the courts decide in a prompt and timely manner whether the parents can care for their children safely; and

in a prompt and timely manner

¹Children of minority heritage remain in care longer and are over-represented among the children in care who are seeking permanency and require special attention; therefore, they are included among children with special needs.

- Adoption and guardianship opportunities for children who cannot or should not be reunified with their parents and/or whose parents' rights to custody have been terminated.

The ability of child welfare agencies to make timely determinations about permanency is dependent upon the quality, availability and accessibility of services at any point on this continuum. The principal goal of the child welfare system is to protect children and provide a temporary safe haven for them while parents develop the ability to protect their children and care for themselves. Each year, about sixty percent of the children in foster care will safely return home, most within one year. However, some children will be unable to return to their birth families safely. For these children, adoption or guardianship can be the key to a permanent, loving family and the security necessary for healthy development.

Characteristics of Children Waiting for Adoption

The children waiting for adoption are primarily those whose parents have been unable or unwilling to resolve the issues that precipitated placement. Of the more than 450,000 children who were in the foster care system in 1994, 100,000 could not return home without jeopardizing their health, safety, and development. The majority of them had a goal of adoption, with 27,000 being legally free and immediately available for adoption.

Most foster children awaiting adoption are considered children with "special needs," which means they have characteristics that make them harder to place. The median age of children who are legally free and awaiting adoption is almost nine years old. Slightly over half of the children are of minority heritage. Two-thirds of the children in the special needs category have medical problems, developmental delays and disabilities, and/or behavioral and psychological problems. The most recent data, though preliminary, suggest that the proportion of legally free children who have special needs is increasing. Another growing problem is the number of children orphaned by AIDS. One factor is the growing

Barriers to Adoption and Permanence

In addition to the placement challenges posed by the characteristics of children with special needs, there are a number of barriers to permanence spanning the social service and judicial systems. Some of the most significant barriers that delay permanence include:

- **Delays in Child Welfare Agency Practices:** Federal statute requires States to provide "reasonable efforts" to make it possible for a child to return to his or her home. These efforts often take the form of actual services offered and/or provided to the family, such as family counseling, respite care, and substance abuse treatment. If an agency ^{does} has not offered or provided these services in a timely fashion, the permanent plan for a child may be impeded.

Delays also can result from well-intended ^{but misguided} practices to preserve families through prolonged and extensive reunification services without adequate consideration of the permanency needs of children. In these situations, adoption or an alternate

Also, delays result from the vagueness of the law, which provides child welfare agencies with insufficient guidance about how to interpret a "reasonable effort" and specifically when the reasonable efforts requirement has been met and it is therefore appropriate to recommend adoption as a ~~an~~ appropriate goal for a child.

permanency plan is rarely considered until the 18-month dispositional hearing. High caseloads and rapid staff turnover ~~may also delay consideration of an adoption goal.~~

~~Cross~~ jurisdictional barriers ^{between} exist ~~within~~ State child welfare systems may also result in delays in implementing permanent plans for children. At times, there is an unwillingness to effectively coordinate services to families and share limited resources across State agencies.

- **Delays in Court/Judicial Practices:** Delays throughout the judicial process, from the initial determination of abuse or neglect through the resolution of the dispositional hearing, often ~~result from court practices and procedures.~~ ^{impede permanent placements} The courts' inability to attend to the permanency planning needs of children result from ~~various practices~~ ^{of ~~various practices~~} such as the backlog of cases on a court's calendar; strict evidentiary requirements established by State's Attorneys; and the extensive time and resources required for an agency to prepare cases for termination of parental rights. In addition, some States' adoption laws include timelines or other family reunification effort requirements that may preclude an appropriately early termination of parental rights.
- **Delays Related to Staff Beliefs and Attitudes:** A limited view of which children are adoptable may contribute to a reluctance to terminate parental rights outside that range. If no adoptive home has been identified, child welfare workers and judges may be reluctant to terminate the parental rights of the child's biological family because no permanent alternatives exist.
^{Also detrimental is}
~~There is also~~ the belief by some that children are not disadvantaged by remaining in foster care for long periods of time. ^{to use} They believe that foster families will be just as stable as adoptive homes ^{despite evidence that children in foster care frequently move between placements.}

Further, some workers and agencies have delayed or denied adoptive placements because their priority was to seek families with backgrounds similar to those of the children needing permanent homes, ^{even though this practice is illegal.}

- **Limited Pool of Permanent Families for Children with Special Needs:** Despite the requirement in title IV-B to recruit potential foster/adoptive families able to meet the needs of children requiring out-of-home placement, the pool of permanent families for children of minority heritage, older children, members of sibling groups, and children with emotional, developmental, or physical challenges remains insufficient.

This report outlines an agenda to help overcome these barriers to adoption and to accelerate the path to permanency for all waiting children.

Guiding Principles for the Adoption Initiative

Based on a firm understanding of the challenges that face children who await permanence in the child welfare system, the Department will pursue the President's goals in a manner which focuses on changing the outcomes for those children who are hardest to place; improves decision-making for children currently entering the system; and reinforces best practices throughout the system. Based on the extensive external consultation, a set of principles has emerged to provide a foundation upon which we can build the important work of the Adoption 2002 Initiative.

(Italics) • The Federal Goal for ~~the~~ Children in the Child Welfare System are Safety & Permanency

① • Every child deserves a safe, permanent family.

• Foster care is a temporary situation, it is not an appropriate place for children to grow up.

② • The child's ^{health and} ~~safety and well-being~~ should be the paramount consideration^s in all placement and permanency planning decisions.

• Permanency planning efforts for children should begin as soon as a child enters foster care and should be expedited by the provision of services to families.

③ • The timeframes for placement and permanency planning decisions must be respectful of the child's developmental needs and the child's sense of time.

• Permanency cannot be achieved for children without the partnership of child welfare agencies, the courts and other service-providing agencies (e.g., housing, mental health care, and substance abuse treatment).

• Adoption is one of a number of pathways to permanency which also includes reunification, guardianship, and permanent placement with relatives.

• Adoptive families often require services and supports long after legalization to meet the ongoing challenges of caring for their children.

• Communication and information sharing about effective strategies, innovative programs, and collaboration opportunities is critical to the success of this initiative.

• The diversity and strengths of all communities must be tapped to create permanency for children.

* Children ^{in foster care} deserve prompt, timely decision^{-making} about their future from the adults serving them in the public child welfare system

The Department is committed to working with all sectors of the American community to implement the activities of the Adoption 2002 Initiative in a way that adheres to the principles of sound child welfare practice. The next section of this report presents a series of recommendations to help remove the barriers to permanency for children in foster care and support improvements throughout the child welfare system. The Adoption 2002 Initiative will be a powerful tool to help the Nation realize the goals of safety, permanence, and well-being for every child.

IV. RECOMMENDATIONS FOR ACTION

Today, therefore, I direct the Secretary of Health and Human Services, in consultation with State and civic leaders, to report to me within 60 days on actions to be taken to move children more rapidly from foster care to permanent homes and at least to double, by the year 2002, the number of children in foster care who are adopted or permanently placed out of the public foster care system.

-- President Clinton
December 14, 1996

President Clinton's directive ~~contained specific areas for which he~~ requested ^{in a number of specific areas.} recommendations from the Department. Many of the strategies highlighted in the President's directive focus on activities that the Federal government can undertake. However, the President also emphasized that placing children in nurturing families is a national priority and responsibility that requires efforts on the part of ~~Federal,~~ State, and local governments as well as community, business, and religious groups. The Federal role in this initiative is ^{largely} one of supporting States and communities ~~as they strive to achieve the goals~~ by providing financial incentives, technical assistance, policy and programmatic leadership, and recognition of successful efforts. In this section of the Department's report, each element of the President's directive is cited and specific proposed actions are outlined and discussed.

- ◆ **INCREASING THE NUMBER OF ADOPTIONS** - *To increase the number of children who are adopted or permanently placed each year, this report should include, but should not necessarily be limited to, recommendations in the following areas:*

Setting Goals (a) *Plans to work with States on setting and reaching State specific numerical targets, ...*

PROPOSED ACTION STEPS

To set numerical targets leading to a doubling in the number of children who are adopted or placed in alternative permanent homes by the year 2002:

- By September 30, 1997 the Department, through its Regional Offices, ^{will} ~~will work~~ ^{and} collaboratively with the States ~~to~~ establish preliminary numerical targets for adoption and guardianship. All States will establish both preliminary baseline data for fiscal year 1997 on the number of adoptions and guardianships and proposed annual incremental targets for fiscal years 1998-2002, leading to a national doubling in the annual number of adoptions and guardianships completed by fiscal year 2002.

Discussion:

Establishing numerical targets with States, including annual benchmarks to move States to the goal of doubling the number of adoptions from the foster care system by the year 2002, provides an outcome-driven framework for the Adoption 2002 Initiative. This approach also offers a way to link adoption efforts at the Federal, State, and community levels in pursuit of specific results for children.

In order to establish baselines and targets, the Department will form partnership agreements with the States, building on the work already underway between the Department and the States. In December 1995, the Children's Bureau organized a national meeting of State adoption managers, national advocacy organizations, private non-profit organizations, adoptive parents and Federal staff. The participants produced an outcome-focused, ~~holistic~~ framework for adoption services for children with special needs. Because of its emphasis on results, this framework can be the foundation upon which to base results-oriented activities under the President's directive.

The Regional Offices of the Administration for Children and Families have launched discussions with the States about the President's directive and more goal-directed methods to increase the number of children who are permanently placed. Some States and local jurisdictions have already strongly endorsed the President's initiative with letters of support. (See Appendix E.)

- ◆ *Technical Assistance (a) . . . using the technical assistance of the Department of Health and Human Services National Resource Centers to make information on best practices available to States and to engage community leaders, parents, and the business and faith communities;*

PROPOSED ACTION STEPS

To assist States and communities to reach their targets for increased numbers of adoptions and alternative permanent placements for children in foster care:

- The Department will provide the best adoption expertise in the nation to State agencies, courts and communities to improve the timeliness of permanency decisions and to increase the number of adoptions and other permanent placements for children in foster care unable to be reunified with their families.
- Technical assistance will support the development of collaboratives that encourage placements across geographical boundaries; models to improve the recruitment of families for children with special needs; and the development and dissemination of model legislation, best practice guidelines, multi-disciplinary training curricula and implementation guides on the Multiethnic Placement Act (as amended) and the Indian Child Welfare Act.

- The President's fiscal year 1998 budget seeks \$10 million annually for three years (FY 1998-FY 2000) to support these efforts.
- The Department will also review and may revise the title IV-E training regulations to assure a comprehensive approach to child welfare training with a focus on the knowledge and skills necessary to achieve timely permanency planning.

Discussion:

The Department's proposed technical assistance strategy recognizes the need to provide the best information available to agencies, courts, institutions and professionals who make key decisions daily about children's futures. Respondents in the Department's consultation frequently cited the need for the Federal government to foster the sharing of information and best practices across the country.

Some of the specific activities the Department expects to undertake include:

- Providing technical assistance to child welfare agencies and to courts to implement an outcome-focused approach related to the best interests of the child, permanency, timeliness, and quality of care.
- Developing and disseminating materials such as:
 - model guidelines for family assessment;
 - guidelines for State legislation relating to terminating parental rights and guardianship;
 - legislative options for States developing stand-by guardianships for children with terminally ill parents;
 - curricula for collaborative training with agencies, attorneys, and judges;
 - effective judicial and agency practices;
 - recruitment and family development models;
 - information for courts and agencies related to the Multiethnic Placement Act (as amended) and the Indian Child Welfare Act;
 - guidelines for conducting administrative reviews. ; and
 - information on the adoption tax credit .
- Convening Regional forums to encourage peer-to-peer exchanges of information and successful strategies.
- Awarding grants to multi-State and intrastate collaboratives (operated by the States or other entities) that encourage placements across geographical boundaries; and to local collaboratives designed to recruit families for children with special needs.



◆ **Financial Incentives** (b) Proposals to provide per child financial incentives to States for increases in the number of adoptions from the public welfare system. Options considered should have little to no net costs, as increases in the number of adoptions from the public system will reduce foster care costs, thereby offsetting much if not all of the incentive payments;

PROPOSED ACTION STEPS

To encourage States to meet their adoption goals and to reward them when they do:

- The Department proposes a bonus for children adopted from the public foster care system. For each child adopted over the base number for that year a per child bonus would be awarded to the State. ~~Additionally, a supplemental bonus would be awarded to the State for every title IV-E special needs child adopted over the previous year's number.~~ The bonuses would be established as an amendment to the title IV-E Adoption Assistance program. States could use their bonus funds to improve or increase services, including post-legal adoption services, to children and families in the child welfare system.

A higher bonus would be paid to the extent these increases are among special needs children.

Discussion:

The Department is proposing a system that would provide a per-child bonus to each State that increases its annual number of adoptions from foster care system. This proposal places an emphasis on special needs children by providing an extra incentive for their adoption.

The bonuses would be paid to the States in the year following the year in which they were earned beginning in 1999. The bonus money would be available for use by the State for any activity or service which is allowable under title IV-E, ^{or IV-B} of the Social Security Act. These include a wide range of services to children and families, including post-legal adoption services.

The President ^{budget includes} has requested \$108 million in ~~FY 1998~~ for bonus payments to the States. Based on this proposal, each State would receive a bonus for every child adopted from the State foster care system above the baseline or the annual starting point. An ~~additional~~ ^{higher bonus} supplement will be added to the bonus for every child adopted from the State foster care agency ^{that} who is also eligible to receive assistance under a title IV-E adoption subsidy agreement (i.e., a special needs child). ~~This bonus is only available in a given year based on the number of title IV-E children adopted in excess of the baseline or annual starting point.~~ During the Department's consultation with State officials were supportive of the goal of doubling the number of adoptions.

(Many of these changes are per Wt OMB)

would be paid to the extent these increases were among special children.

The baseline or starting point for determining each year's incentive funds will be determined based on data submitted by the States to the Adoption and Foster Care Analysis and Reporting System (AFCARS), the federally-mandated foster care and adoption data collection system. For the purposes of establishing baseline data only, a State that has not yet submitted reliable AFCARS data may produce data from an alternative source, provided that it can demonstrate to the satisfaction of the Secretary that the alternative data provided are reliable.

The cost of bonuses paid will be offset by

The Department's proposal provides a concrete reward to States for good performance, without increasing the expenditures of Federal dollars. Cost savings come from adoption subsidy levels that are equal or less than ^{those in} foster care maintenance payments. Additionally, the administrative costs for maintaining a child in a finalized adoption is significantly less than maintaining a child in foster care and administrative costs.

more to #2 of discussion

◆ **Implementing the Multiethnic Placement Act** "(c) A proposal to ensure continued aggressive implementation of the Multiethnic Placement Act, as amended by the Interethnic Adoption Provision of the Small Business Job Protection Act;..."

PROPOSED ACTION STEPS

To continue the Department's aggressive implementation of the Multiethnic Placement Act (MEPA), as amended by the Interethnic Adoption Provision of the Small Business Job Protection Act:

- The Department will expedite the issuance of guidance regarding the amendments to MEPA contained in the Interethnic Adoption Provision. This guidance will focus on the implications of the deletion of permissible consideration language, the new penalty structures, and the approach the Department will take to implementing systematic compliance review protocols.
- The Department's Office for Civil Rights (OCR) will expedite the revision and implementation of compliance reviews. In addition, the Department's Administration for Children and Families (ACF) will include in its monitoring review process a focus on MEPA compliance.
- The ACF and OCR will provide States with technical assistance over the next several months regarding compliance with MEPA.
- The OCR will continue its expeditious review of individual complaints.

to supplement information earlier disseminated to the States.

issue in 60 days

can't do it in 60 days
120

Discussion

The Multiethnic Placement Act of 1994 (MEPA) was designed to decrease the length of time that children wait to be adopted, prevent discrimination in the placement of children on the basis of race, color, or national origin, and facilitate the identification and recruitment of foster and adoptive families who can meet children's needs. The MEPA, as amended by the Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996, prohibits delaying or denying the placement of any child on the basis of race, color or national origin; requires States to diligently recruit prospective adoptive and foster care families who reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed; and requires the Federal government to impose fiscal penalties for States not in compliance with the anti-discrimination prohibition. (extra space)

After the passage of MEPA, the Department worked aggressively to ensure that State laws and policies conformed to the statute's provisions. The Department issued guidance in April 1995, notified States of their non-compliance, and worked with 27 States and the District of Columbia to achieve policy compliance. In fiscal year 1997, the OCR will begin reviewing agencies for practice compliance. Beginning in 1995, Regional Offices reviewed State title IV-B plans to ensure that child welfare services programs included recruitment plans for adoptive and foster care parents. The Department will undertake a similar course of action to ensure compliance with the Interethnic Adoption Provision.

Since the enactment of the Interethnic Adoption Provision, the Department has issued an Information Memorandum to the States and title IV-E agencies informing them of the changes to the MEPA. The Department is presently drafting guidance to address how the changes to the discrimination prohibition (particularly the repeal of the "permissible consideration" language that accommodated the consideration of cultural, ethnic, or racial background as one of a number of factors used to determine the best interests of a child) should be implemented. The Administration for Children and Families also is developing processes for assessing penalties, implementing corrective action plans, and conducting systematic monitoring of State practices. The Office for Civil Rights is revising its compliance review instrument that focuses specifically on transracial adoptive and foster care placements.

- ◆ **Tracking Progress of the States** *(d) Plans to compile and publish an annual State-by-State report on success in meeting the numerical targets;*

PROPOSED ACTION STEPS

To publicize the progress made by each State and the Nation as a whole in reaching numerical targets:

- The Department will issue an annual ^{state by-state} report, beginning in the Spring of 1999, on the Nation's progress in meeting the goals of the President's directive. The annual report

will provide State-by-State figures on key measures of success including not only the number of children in foster care who are adopted or placed in guardianship, but measures that reflect the experience of children in the child welfare system, such as the length of time in care and the timeliness of permanency decisions.

- The report will be disseminated widely to national and State policymakers, advocates, State agencies and courts and other interested individuals through targeted mailings and distribution by the National Adoption Information Clearinghouse. The report will also be made available electronically through the Department's homepage on the World Wide Web.

Discussion:

The focus on collecting and using quality data in the area of adoption and permanency will advance our national efforts to strengthen the collection and availability of reliable child welfare data. To ensure that the public stays focused on how well the Nation and the individual States are meeting established goals, the Department is committed to disseminating timely information as widely as possible.

◆ **Recognizing Success** *(e) Plans to recognize successful States.*

PROPOSED ACTION STEPS

To foster public recognition of successful, innovative practices:

- The Department will work in collaboration with foundations and intergovernmental organizations to establish annual awards to be made each November during the commemoration of National Adoption Month. Beginning in 1997, these awards will recognize States, local agencies, courts, private organizations, employers and others who are making key contributions to national efforts to support adoption and to promote permanency for children in the child welfare system.

Discussion:

In addition to publishing annual findings on how the States are progressing toward numerical adoption and guardianship goals, the Department is enthusiastic about the prospect of recognizing innovations in adoption and permanency planning practices by States, and other public and private entities. This will be an opportunity to identify and publicly recognize outstanding practices and will help provide a means to publicize successful actions that can be replicated in other parts of the country.

- ◆ **MOVING CHILDREN WHO CANNOT RETURN HOME MORE QUICKLY TOWARD PERMANENT HOMES** - *To move children more rapidly from foster care to permanent homes, the report shall also recommend changes to Federal law and regulations and other actions needed to emphasize the importance of planning for permanency as soon as a child enters the foster care system. The Secretary's report should include, but should not necessarily be limited to, recommendations in the following areas:*

Removing Barriers to Permanency (a) *Plans to provide States with funding to identify barriers to permanency and to develop targeted strategies to find permanent homes for children who have been in foster care a particularly long time;*

PROPOSED ACTION STEPS

To assist State child welfare agencies, courts and nonprofit organizations to identify and overcome barriers to permanency:

- Through its annual discretionary grant award process, the Department will award new and continuing grants under the Adoption Opportunities Act to assist in overcoming barriers to adoption for special needs children. ^{will? or how?} Grants made under the Adoption Opportunities Act address a variety of issues such as: improving the recruitment of minority families; encouraging collaboration to strengthen services to children with disabilities; developing non-adversarial options for permanency, such as concurrent planning, voluntary relinquishment of children and family mediation; and developing training and resource materials to help adoptive parents meet the needs of adopted children who are of a different race or ethnicity.
- For fiscal year 1998, the President's budget requests \$10 million in additional funds for the Adoption Opportunities Act to support a special cluster of barrier reduction grants to the States. These grants would be awarded competitively to State agencies to develop model strategies to reform permanency planning and adoption services, both for children currently in foster care who are unable to return to their families and for children just entering the foster care system. To be eligible to compete for these grants, applicant States would need to participate with the Department in the setting of numerical targets to double the number of adoptions and permanent placements by the year 2002, develop a goal-oriented plan for meeting their goals, and involve the courts in developing their applications and strategies. Up to 15 grants would be awarded.
- The Department will also continue to work with the States to fully implement the Court Improvement Program, authorized in conjunction with the Family Preservation and Support Act. This program provides a grant to the highest court in each participating State to assist in assessing and addressing barriers to permanency from

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the perspective of the courts. The program has helped to bring courts and agencies together to examine barriers to permanency and to develop a plan to address these issues. States are now completing their assessments, and are ready to move forward in implementing changes in the court's handling of child welfare cases.

Discussion:

Identifying and addressing barriers is crucial in our national efforts to move children in foster care more quickly to permanent homes, whether this be through reunification, adoption, or placement in an alternative permanent home. Many different factors can serve as a barrier to permanency, ranging from worker decision-making, to the lack of availability of needed services for families, to court delays, to the supply of adoptive families. Addressing barriers to permanency, therefore, requires a multi-faceted strategy where the Federal government can make a number of important contributions. *ed*

For example, during the Department's consultation with the field, many individuals mentioned that the Court Improvement Program has been helpful both in focusing the judicial system's attention on child welfare issues and in bringing courts and child welfare agencies together to identify and address barriers to permanency. To augment the important work already begun, the Department is proposing the awarding of competitive grants to up to 15 States that form an effective collaboration between the State agency and the State court and that involve other key stakeholders, including Tribes, community representatives, and citizen review boards.

These grants will be used to develop model strategies to reform permanency planning and adoption services, i.e., concurrent planning, expanding court capacity, partnerships for recruitment, and modification of State law and policy. The focus will be on children waiting as well as children newly entering the foster care system, to ensure more timely decisionmaking. These decisions will reflect the best interest of the child and provide appropriate services to support moving children more quickly from foster care to permanent homes.

- ◆ **Addressing Permanency Planning Earlier Through Timely Hearings** (b) *Proposals to shorten the period of time between a child's placement in foster care and his or her initial hearing at which a permanency determination is made;* (c) *A proposal to clarify that the purpose of "dispositional hearings" is to plan for permanency and, as appropriate, to consider referrals for family mediation, termination of parental rights, adoption, legal guardianship, or other permanent placements;*

PROPOSED ACTION STEPS

To encourage more timely permanency planning and improved judicial decision-making for children in foster care:

and will work with Congress toward that goal.

- The Department recommends that the Federal statute requiring an 18-month dispositional hearing be amended to require that this hearing be held no later than 12 months after a child's placement in foster care.
- The Department further recommends amending the Federal statute to change the name of the "dispositional hearing" to "permanency planning hearing."
- The Department will provide guidance to: *(the States in days to 2nd priority)*
 - Clarify the purpose of the dispositional hearing;
 - Clarify the purpose of the 6-month administrative review; and
 - Clarify that States have the flexibility to increase the frequency of the dispositional hearing as well as the 6-month administrative review.
- The Department proposes several additional activities specifically addressing court-related barriers to permanency:
 - Convening a forum of leaders in the legal profession, judges, attorneys, agency administrators and advocates to develop strategies for adding to the courts' focus on improved outcomes for children.
 - Identifying and disseminating information about innovative reforms and model practices derived from the assessments of the Court Improvement Programs and other efforts.
- Finally, the Department encourages the President to communicate with State chief justices and national legal organizations to emphasize the importance of elevating the status of child welfare proceedings (including child protection, permanency planning, termination of parental rights and adoption proceedings) within the courts.

Discussion:

The President's directive called on the Department to examine issues around the timeliness of judicial hearings affecting the duration of a child's stay in foster care and his or her movement towards permanency. Specifically, the directive instructed the Department to examine ways to shorten the period of time between a child's placement in foster care and the initial dispositional hearing at which permanency planning issues are addressed.

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) created the framework for existing Federal child welfare programs and requirements. Among the provisions of the law are requirements for administrative and court reviews to ensure that children's needs for permanent homes are addressed. The law requires that, within 18 months of placement, and every 12 months thereafter, a dispositional hearing must be held to determine the child's permanent placement and, specifically, whether:

**WHITE HOUSE PROPOSED LANGUAGE ON REASONABLE EFFORTS
ADOPTION 2002 REPORT**

- **Clarifying “Reasonable Efforts”:** *(d) A proposal to clarify the “reasonable efforts” requirement and other law as it relates to permanency and safety;*

PROPOSED ACTION STEPS

To ensure the protection of children by clarifying or proposing changes to legislation regarding “reasonable efforts,” reunification of children with their families, and termination of parental rights:

- The Department will issue administrative guidance within 60 days that clarifies the “reasonable efforts” provision of Title IV-E of the Social Security Act. This clarification will advance the goal of giving every child in our nation’s public child welfare system a safe and permanent home by making it clear that in determining whether and when to remove a child from his or her family, whether and when to reunify the family, and whether and when to seek an alternative permanency plan, the child’s health and safety shall be the paramount concern.
- Members of Congress have developed a number of proposals to address this issue, and the Department will work with them to achieve statutory changes reinforcing this administrative clarification.
- The Department in particular will work with Congress to ^{more clearly and appropriately} ~~define~~ the circumstances in which “reasonable efforts” to reunify a family ^{may not be appropriate or required.} ~~should not be undertaken~~. The Child Abuse Prevention and Treatment Act (CAPTA), as amended by Congress in 1996, already requires that, as a condition for receiving funds under the Basic State Grant Program:

1) the State may not mandate the reunification of a surviving child with parents found to have aided, abetted or committed:

- murder
- voluntary manslaughter
- serious bodily injury to their children; and

2) conviction of any of the above mentioned felonies constitutes grounds for the termination of parental rights.

The Department will work towards amending the Title IV-E provision of the Social Security Act ^{to ~~the~~ similarly illustrate to the states} ~~by incorporating an expanded version of this list of circumstances in which~~ reunification is not appropriate. _{or required}

illustrate

- The Department will also issue model guidelines for State legislation that will advance the goal of giving every child in our nation’s public child welfare system a safe and permanent home by making it clear that in determining whether and when to terminate parental rights, the child’s health and safety should be the paramount concern.

DISCUSSION

Since 1980, Federal law has required that “reasonable efforts” be made both: 1) to prevent the unnecessary removal of children from their families; and 2) to reunify children, when possible, who have been placed in foster care, with their families. The goal of this provision was to reduce the phenomenon of children languishing unnecessarily in foster care. The Federal “reasonable efforts” requirement has been both heralded as being essential to effective child welfare practice and criticized for being unclear and a barrier to child safety and permanence.

Consultation with the field revealed that there is wide variation in how current “reasonable efforts” law is interpreted by caseworkers, agencies, and judges around the country. There was a strong consensus that some clarification of the reasonable efforts requirements is needed to allow for better, more timely decision making in individual cases, although there were divergent opinions on what degree of specificity would be useful from the Federal government.

The proposals outlined above will send a clear message that Federal law requires that the health and safety of children shall be the paramount concern in making decisions about whether and when to remove children from families, whether and when to reunify the families, and whether and when to seek alternative permanency plans. They also will make clear to the States the Administration’s view that the child’s health and safety should be paramount in determining whether and when to terminate parental rights.

make stronger

- the child should be returned to the parent;
- the child should be continued in foster care for a specified period;
- the child should be placed for adoption; or
- the child should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis.

This hearing was intended to be the time when a definitive permanent plan for the child would be set by the court. However, these permanent plans are not always set within the 18 month timeframe, sometimes because of the confusion surrounding the purpose of the dispositional hearing.

The Department's proposals reflect themes heard during the Department's outreach and consultation process. There was significant agreement that the permanent plan for a child should be set earlier than 18 months after a child's entry into foster care. We also heard support for providing guidance that would clarify the purpose of the dispositional hearings. While the Department believes that the changes outlined above will encourage more timely decisions regarding permanency planning for children, it must be emphasized that services must begin as soon as the child enters substitute care.

In addition, to addressing the timeliness of hearings, there is widespread support for reviewing and strengthening court practices to achieve better outcomes for children in the child welfare system.

◆ **Clarifying "Reasonable Efforts"** (d) A proposal to clarify the "reasonable efforts" requirement and other ~~Federal policy~~ ^{law} as it relates to permanency and safety;

PROPOSED ACTION STEPS

To ensure the protection of children and to make certain that Federal laws regarding reasonable efforts, reunification of children with their families and termination of parental rights are understood by all involved in permanency planning:

- The Department will issue administrative guidance within 60 days that clarifies the "reasonable efforts" provision of title IV-E. This action will advance the goals of safety, permanency, and well-being by making it clear that decisions regarding a child's removal from family, reunification and/or permanent plan should be made with to child's health and safety being the paramount concern.
- The Department recommends that the "reasonable efforts" provision of title IV-E law be amended to make explicit that child safety is the paramount concern in decisionmaking for children in the child welfare system. The Congress has developed a number of proposal to address this issue and we will work with them to achieve the necessary statutory changes.

Handwritten notes:
 See attached - exact same as earlier based

See attached - exact as law is found

- The Department will also work with the States to implement provisions in the Child Abuse Prevention and Treatment Act (CAPTA), as amended by the Congress in 1996. These provisions require that, as a condition for receiving funds under the Basic State Grant program, (1) the State may not mandate the reunification of a surviving child with parents found to have aided or abetted or committed murder, voluntary manslaughter, or serious bodily injury to their children; and (2) conviction of any of the above mentioned felonies constitutes grounds for the termination of parental rights. The Department will work with Congress to incorporate similar provisions into title IV-E of the Social Security Act.

Discussion:

Since 1980, Federal law has required that "reasonable efforts" be made both: (1) to prevent the unnecessary removal of children from their families; and (2) to reunify children, when possible, who have been placed in foster care with their families. The goal of this provision was to reduce the phenomenon of children languishing unnecessarily in foster care. The Federal "reasonable efforts" requirement has been both heralded as being essential to effective child welfare practice and criticized for being unclear and a barrier to child safety and permanence.

Consultation with the field revealed that there is wide variation in how the current "reasonable efforts" law is interpreted by caseworkers, agencies, and judges around the country. There was a strong consensus that some clarification of the reasonable efforts requirements is needed to allow for better, more timely decisionmaking in individual cases, although there were divergent opinions on what degree of specificity would be useful from the Federal government.

The proposals outlined above will send a clear message that Federal law requires that the safety of children be the primary consideration in making decisions about when to remove or reunify children with their families, as well as when to terminate parental rights, while providing State agencies and courts with the flexibility needed to make sound individualized decisions for children in the child welfare system.

◆ **Standards for Securing Permanency** *(e) Plans to ensure that States give appropriate weight to permanency planning by establishing standards for securing permanency through adoption or guardianship, once a decision has been made that a child cannot be returned home;*

PROPOSED ACTION STEPS

To ensure that States give appropriate attention to permanency planning for children in foster care unable to return home to their families:

Who are

- The Department recommends that title IV-E of the Social Security Act be amended to require "reasonable efforts" to secure a permanent home for children in foster care when adoption or another permanent placement is the goal for the child.
- The Department will propose regulatory changes to clarify that States may simultaneously work toward reunification and develop an alternative plan for children in the event that they are not able to be reunified. The Department will also disseminate effective models of practice.
- The Department will work with States to encourage use of the Federal Parent Locator Service at the time a child enters foster care to locate absent parents and other relatives who may be able to provide permanent homes for the child.

Discussion:

As discussed above, there is a Federal standard that requires States to make reasonable efforts to prevent the removal of children and to reunify families when consistent with child safety. However, there is currently no comparable standard or requirement to find alternative permanent homes for children once the decision has been made that they cannot safely be reunified with their families. Too often, children are made to wait in foster care for long periods of time, even after the decision has been made that adoption is the most appropriate permanency option for the child. Passage of legislation to require reasonable efforts to secure a permanent home for children will help to ensure that States give priority attention to the issue of permanency.

In addition to setting a standard for permanency in the law, the Department will clarify its policies to ensure that States understand that they may concurrently work with families to help them safely resume care of their children and develop an alternative plan for permanency in the event that the child and family cannot be reunified. This practice of concurrent planning was frequently endorsed during the Department's consultation as an effective means to ensure timely decision-making for children. In addition, the Department will share information and best practices with the States on how to conduct concurrent planning.

An additional step the Department proposes to assist States in making timely and informed decisions about permanency is to work with State child welfare and child support enforcement agencies to facilitate use of the Federal Parent Locator Service to identify and locate absent parents or other relatives who may be interested in providing a permanent home for a child in foster care. (The Federal Parent Locator Service is currently used by State child support enforcement officials.) Even if an absent parent or other relative is unable to provide a home for the child, ruling out this alternative early in a child's placement will allow the agency and court to move expeditiously towards adoption or another permanent alternative.

- ◆ **Alternative Forms of Permanency** (f) *Plans to examine alternative permanency arrangements, such as guardianship, when adoption is not possible.*

PROPOSED ACTION STEPS

To gain a better understanding of alternative permanency arrangements:

- The Department proposes to continue to study and evaluate guardianship as an alternative form of permanency when adoption is not possible. The Department will work with the States of Illinois, North Carolina, and Delaware in evaluating the assisted guardianship efforts being undertaken as part of these States' child welfare demonstration waivers.
- The Department ^{may seek} ~~will request~~ a limited expansion of the child welfare demonstration waiver authority to test additional approaches to permanency and timely decisionmaking. *if the current authority is found to be insufficient.*
- The Department will also continue to explore relative and/or kinship care as a means of ensuring permanency for children. Demonstration grants regarding kinship care are permitted under the Child Abuse Prevention and Treatment Act, as reauthorized in 1996. The Department intends to fund projects in the future under this authority to improve our knowledge of the use of kinship care in ensuring children's safety and permanency. Examples of topics that might be addressed under this demonstration authority include the development of best practices for the licensing and approval of relative ₃ homes and the development of training curricula focused on permanency for children in relative care. ✓

Discussion:

When adoption is not appropriate, children need stable, permanent living arrangements. Examples include some children placed in long-term kinship care arrangements and some older children with special needs without realistic adoption prospects. This is also an important issue for American Indian children under Tribal jurisdiction. Many Tribes consider kinship care the cultural equivalent of adoption.

Many people with whom the Department consulted recommended that the Federal government help pay for the cost of subsidized guardianship arrangements, as it does for adoption, under title IV-E of the Social Security Act. The Department does not recommend this step at this time. Because guardianships are easily revoked and, therefore, do not offer the legal protection of adoption, the criteria for the use of guardianship as a form of permanency must be carefully examined. There is limited understanding of the factors which shape decisions about adoption and guardianship by relatives. Premature changes in title IV-E reimbursement policies might result in unintentional incentives to shift children into guardianship arrangements when an adoption could be achieved.

Several current and proposed activities will expand our knowledge and experience regarding guardianship and its relationship to relative care. Using demonstration authority, the Department will work with the States to gain better information on how guardianships are currently used; the relationship between guardianships, relative care and adoption; and the important ways in which guardianships differ from adoption. Based on these demonstration efforts, the Department will consider whether criteria might be developed regarding when and for which children such alternatives are appropriate. Co-guardianships (which are being used in several places for children with incarcerated or terminally ill parents) and family mediation methods which emphasize permanency options for children will also be explored.

Under the child welfare waiver demonstrations, Illinois, North Carolina, and Delaware are currently exploring alternative permanency options that include support for subsidized guardianships (similar to adoption assistance agreements) primarily for kinship care providers. Several other States have applied for similar demonstrations. All waiver demonstrations will be rigorously evaluated. Because we believe that this approach allows for a careful and thorough examination of alternative permanency arrangements and other emerging topics in the field of child welfare, the Department ~~is also requesting~~ ^{is also requesting} an expansion in the number of child welfare demonstration waivers that may be granted ^{if the existing authority} ~~may~~ ^{may} be granted ^{limited}.

Finally, it should be noted that the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) included a provision requiring the States to consider giving preference to relatives as caretakers for children eligible to receive foster care maintenance subsidies under title IV-E of the Social Security Act. Policy guidance for the States is currently under development. This is the first Federal legislative preference for placing children with relatives. We hope that it will lead to an earlier identification and location of relatives who are willing and able to provide permanent, nurturing homes for children in the child welfare system.

is insufficient to fully examine alternative permanency arrangements.

V. CONCLUSION

The *Adoption 2002* report to the President presents a number of recommendations for statutory, regulatory, and administrative actions necessary to double the number of children placed into permanent homes annually by the year 2002. Presidential attention to the needs of children who have been abused and neglected and are languishing in foster care has the potential to change the life experiences of thousands of children.

The Adoption 2002 Initiative builds on the concerns reflected in Congress and by States and communities in their efforts to increase adoption and permanency outcomes for children. Congress is considering important legislative changes in this arena. States are moving to reform their systems by streamlining administrative and judicial procedures to move children more quickly to permanence as well as by amending their laws governing the termination of parents' rights. Foundations are working with the States to ensure that the experience of children in foster care is time limited and results in stability for children. Innovations in the recruitment of adoptive families continue in both community efforts, such as One Church, One Child, and the development of Internet listing services for waiting children.

As a Nation, we have an important opportunity to focus the energy of Federal, State and local governments with that of professional organizations, faith communities, and neighborhood leadership to make a difference for our most vulnerable children.

The time is now. The chance is ours.

Thank you!