

*file child welfare
oversight*

STATEMENT BY

OLIVIA A. GOLDEN
ASSISTANT SECRETARY FOR CHILDREN AND FAMILIES
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

ON
OVERSIGHT OF THE CHILD WELFARE SYSTEM

BEFORE THE
HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
U.S. HOUSE OF REPRESENTATIVES

APRIL 22, 1999

Madam Chairman and Members of the Subcommittee,

Thank you for the opportunity to appear before you today to discuss federal oversight of the child welfare system: the network of state, local, and private organizations that seeks to ensure safety, permanence, and well-being for our nation's most vulnerable children, those children who have experienced or are at risk of child abuse and neglect. This work is enormously important and I want to thank the Committee for your leadership and commitment. I am also pleased to have the opportunity to report to you on our success in increasing the number of children adopted from the foster care system.

These last five years have seen extraordinary changes in the laws and procedures affecting child welfare and significant investment in resources designed to strengthen systems and improve outcomes for hundreds of thousands of children and families. In fact, a significant achievement of the last five years is that today all parties involved in child welfare – from the federal government to state government to private providers – are looking at outcomes and working to determine how to improve them. The changes that we and the states have made have the potential to make significant improvements in the results achieved from these services. Among the most important accomplishments:

- Thanks to the Administration's Adoption 2002 initiative, federal legislation, and innovative activities supported by states and private foundations, we have made great progress in finding adoptive families for children waiting in foster care. Between 1996 and 1997, the number of children adopted grew from 28,000 to 31,000 and it appears the increase in 1998 was even greater.
- In response to the Adoption and Safe Families Act, 33 states have passed legislation to promote better outcomes for children, including provisions that strengthen the focus on safety by clarifying circumstances when it is neither necessary nor appropriate to reunify children with their parents.
- We have made significant investments in new automated systems that can generate the data and information needed by states and the federal government to track results and manage cases effectively.

Yet we still have a long way to go. Because of the continuing problems of child abuse and substance abuse and other factors, the number of children in foster care continues to grow and too many children remain in care for too long; the median length of stay nationally is 21 months. And approximately 18 percent of children have been in care for 5 years or more. There are simply too many children who drift in foster care wondering to whom they belong.

In my testimony, I would like to provide an overview of the child welfare system today, highlight the key actions that the Congress and the Administration have taken to strengthen the national framework and national oversight of child welfare, and summarize the results we have seen so far. I would also like to identify the most important next steps that we must take on

behalf of children.

Children and the Child Welfare System

Each year, child protective services (CPS) agencies investigate reports involving almost 3 million children, nearly a million of whom are found to be victims of substantiated or indicated abuse and neglect. These figures have begun to decline slightly over the past several years, following two decades of steady increases in the number of children reported to CPS. While the majority of children coming to the attention of CPS remain with their families, about 15 to 20 percent of the victims of abuse and neglect must be removed from their homes and placed in foster care for some period of time in order to ensure their safety. Approximately 520,000 children were in foster care as of the end of March 1998, an increase of 28 percent over the estimated 406,000 children in care at the end of 1990.

Every day, front line workers, administrators and judges across the country are called on to make incredibly difficult decisions about the lives of these children and their families. How can they best ensure a child's safety? Can a family facing multiple problems be strengthened to provide appropriate care and nurturing of its children? Can a child's need for a permanent place to call home best be achieved by working with the family of origin, or should an adoptive family be sought?

The child welfare system is complex--involving many organizations, institutions, and individuals. Public child welfare agencies, other public human services agencies, juvenile courts, private service providers and, of course, families themselves, all share responsibility for ensuring children's safety, permanence and well-being. Historically, child welfare services began largely as a function of private agencies and later developed as a responsibility of state and local governments. Ultimately, it is state government that has primary responsibility for carrying out child welfare programs and for protecting children in their care and custody. And, it should be noted states retain significant latitude in the design and delivery of child welfare services to help fulfill this responsibility in a manner that best meets the needs of their jurisdiction. Consequently, there is significant variation across states in practice and policy, including distinctions in the definitions of abuse and neglect and the standards for intervening in family life.

The federal role in child welfare is a relatively recent historical development. Today, the federal government's role includes creating and implementing a common policy framework in which child welfare services are to be carried out; sharing in the financing of child welfare services; and, holding states accountable both for using federal dollars in an appropriate manner and for achieving the results these programs are intended to accomplish. The federal role also includes helping to establish goals and priorities that provide direction to states; promoting innovation in service delivery; funding research and evaluation that help us to understand the dynamics of the child welfare system and the practices that can lead to better results; and, providing technical assistance to help states and localities strengthen their programs.

Increases in Adoption

In at least one area of child welfare, the adoption of children from the foster care system, we already have begun to see positive changes resulting from the reforms in federal and state laws and the increased federal attention being paid to child welfare issues. In November 1996, the Administration launched the "Adoption 2002" initiative, the centerpiece of which called for doubling the number of children who are adopted from the foster care system by the year 2002. This ambitious and specific goal, along with a set of strategies to reach the goal, have served to elevate the importance of adoptions, hold states accountable for their actions, and reward progress in increasing the number of adoptions.

The Congress, in responding to the President's initiative, made key legislative reforms and by authorizing and appropriating funds for the adoption incentive program, provided vital leadership to encourage greater state activity. The results have been impressive. In fiscal year 1997, there were approximately 31,000 children adopted from the foster care system, up from about 28,000 the year before. Preliminary analyses of data for fiscal year 1998 suggest that there was an even greater increase in adoptions last year. And, the fact that there is now national attention being paid to the number of adoptions has prompted the states to improve their collection and reporting of information on children being adopted from foster care. These improved reporting systems allow states to identify and solve problems sooner and help us all better track states' progress.

Strengthening the National Framework for Child Welfare

The success in adoption reflects a part of the work we have done together to strengthen the national framework for child welfare. Over the last several years, the Administration and Congress, working together in a bipartisan manner, have passed critically important child welfare reform legislation, including the Adoption and Safe Families Act, the Multiethnic Placement Act of 1994 and the Interethnic Placement provisions of 1996. Together, these laws:

- make it clear that ensuring children's safety and well-being is the first consideration of the child welfare system;
- require timely decision-making on behalf of all children in foster care;
- tear down barriers to adoption, whether based on racial discrimination, geographic boundaries or simply outmoded assumptions about which children are adoptable;
- provide additional resources for services and encourage greater collaboration to create a network of supports for families at risk or in crisis; and
- place increased emphasis on accountability and the achievement of positive outcomes for children and families.

In response to these changes in federal law, we have held states accountable for promptly

bringing their laws and policies into compliance. After the passage of the Multiethnic Placement Act, for instance, we found that 29 states and the District of Columbia had laws or policies that allowed race-based discrimination in foster care and adoption placements and we worked with them to eliminate discriminatory policies. Similarly, to ensure that states would promptly change laws as required by the passage of the Adoption and Safe Families Act (ASFA), we provided technical assistance for state legislatures through the National Conference of State Legislatures and others at the same time that we made clear to states the funding consequences of failure or delay in passing appropriate legislation. As of April 1, 1999, 33 states have passed the appropriate legislation to come into compliance with ASFA and another 7 states have passed legislation that is now being reviewed by ACF to determine if it does comply. Two states have passed laws that do not fully conform to ASFA and we will work with them to correct these problems. The remaining states either have not begun a legislative session since passage of ASFA or have legislation that has been introduced but not yet passed. We will continue to hold states accountable to ensure that all come into compliance with ASFA's reforms.

Focus on Results

A key part of our strategy for improving child welfare since early in this Administration has been a focus on developing the capacity to measure outcomes and hold all partners in the system accountable for improved performance. The progress we have made in adoptions demonstrates the effectiveness of this strategy. Tracking adoption outcomes, setting goals for the future, making those goals visible, and providing fiscal incentives tied to results have been key elements of this successful strategy. Another key element, described more fully below, has been the improvement of state capacity to measure adoptions as well as other outcomes, which has required a sustained effort to improve dramatically the quality of state information systems. To push the results agenda beyond adoption and hold all partners in the child welfare system accountable for the key goals of safety, permanence, and well-being, we must build on the knowledge we have attained through the adoption strategy and three key accomplishments:

- As required in the Adoption and Safe Families Act, the Department has developed, in consultation with the field, an initial list of results measures that can be used to gauge State performance in ensuring child safety and permanence. The list has been published for comment in the Federal Register, and we are now reviewing input received from almost two-thirds of the states, at least 12 organizations, a number of researchers, several members of Congress, and other interested individuals.
- The Department has conducted 24 pilot tests of an outcomes-based monitoring system and has published proposed regulations that draw substantially on the lessons from those pilots. We currently are reviewing public comments on the regulations and intend to publish a final rule before the end of this year.
- As a result of federal financial assistance, technical support, and clear accountability that includes phased-in penalties, states are now collecting and able to report much more timely and accurate data on foster care and adoptions. Reporting on child abuse and

neglect also has improved considerably, as a result of both financial and technical assistance.

Each of these elements which focus on results is described more fully below.

ASFA Requirement for National Child Welfare Outcome Measures

To develop a list of measures that would reflect the best available knowledge in the field, the Department engaged in extensive consultation, including focus group discussions at major child abuse and child welfare conferences. We also formed a consultation work group comprised of state and local administrators, state elected officials, advocates, researchers, and others, who met twice and participated in several conference calls to help select and refine measures and discuss their appropriate use. Since publication of the initial list in the Federal Register in February, we have been reviewing the extensive comments that we received and analyzing the availability of data to support suggestions that were made. We plan to finalize the list of measures soon and will then submit the first annual report based on these measures later this year.

Child Welfare Monitoring

As you know, another area where we have been working to increase the focus on outcomes is in our proposed revision of the child welfare monitoring process. In fact, one reason we have been able to make good progress in response to the ASFA requirements for outcome measures is that, as part of our work to revise child welfare monitoring, we already had articulated the basic goals of the child welfare system: child safety, permanence, and child and family well-being. These three goals are now well accepted by the child welfare field and are being used by many states in their own work with child outcome measures.

We had begun work to revise our process for conducting both programmatic reviews and title IV-E foster care eligibility reviews in 1994, when Congress adopted legislation requiring a new approach. The law required the Department, in consultation with state agencies, to promulgate regulations for review of state child and family services programs in order to determine whether programs are in substantial conformity with applicable state plan requirements and federal regulations. Among other requirements, the statute said that the regulations should afford the states an opportunity to develop and implement a corrective action plan, receive technical assistance, and rescind the withholding of funds if a state's failure to conform is ended by successful completion of a corrective action plan.

We realized from the beginning that this statutory requirement offered an important opportunity to redesign the monitoring system to focus on outcomes rather than process and to dramatically improve the way the child welfare system works for children. At the same time, we realized that taking on such an ambitious goal would require major changes in the previous system and that no one person or organization had the answers for how to do it. Therefore, following passage of the new law, we held numerous focus groups to gain public input into the revision of the procedures used for both programmatic and financial reviews. In addition, we determined that we would

have to go out and conduct pilot reviews in order to design and field-test an effective and practical way of assessing state performance with an outcome focus. This entire process did result in a delay in issuing regulations for longer than any of us would have wanted, but provided invaluable insight into the major re-design of the monitoring system.

Before publishing proposed regulations, we conducted a total of 24 pilot reviews--12 Child and Family Services Reviews and 12 title IV-E Foster Care Eligibility Reviews. These pilot reviews suggested a number of lessons about approaches to monitoring, and they also served to hold states accountable in new ways as they uncovered both systemic problems and strengths that the old approach to monitoring had not identified.

Among the key lessons from the pilots that drove the design of our proposed monitoring system:

- A review team comprised of both federal and state staff fostered working partnerships that more effectively assisted states in identifying strategies for corrective action and technical assistance.
- In the program reviews, where we went beyond state officials and included local caseworkers, recipients of services, foster parents, and other stakeholders in the process, we found that this strategy broadened the perspective of the review.
- An emphasis on program improvement planning in the eligibility reviews led to specific recommendations for improving the accuracy of title IV-E eligibility determinations, foster care licensing, and the quality of services provided to children.
- Structuring a review process around the outcomes we want for children and families --safety, permanence and well-being -- helped to reorient all parties involved in the review process to focus on the improvements needed to assure those outcomes.
- By contrast, focusing solely on procedural steps and on the case records that document compliance with those steps is insufficient for improving performance in child welfare services. As reviewers looked at the case folders that had been designed to meet previous requirements, they found that these folders often reflected a focus only on documenting procedural steps. As one reviewer noted, "We got what we asked for." The case folders often did not reflect a focus on the key goals of safety, permanence, or well-being of children.

The work we did and the lessons we learned through the pilot review process informed the development of a Notice of Proposed Rulemaking (NPRM) relating to both title IV-E foster care eligibility reviews and Child and Family Services State Plan Reviews. In our NPRM, published on September 18, 1998, we outlined the new procedures that we are proposing for both types of reviews. In response to the Federal Register notice, we received 176 letters primarily from state and local child welfare agencies, national and local advocacy groups for children, educational institutions, and individual social workers. We also appreciated receiving the thoughtful

comments of several members of Congress. We have been carefully reviewing and analyzing comments and working to complete the final rule.

Child Welfare Information Systems

The third critical building block of a results-based strategy for improving child welfare performance is improvement in child welfare information systems. The last several years have seen dramatic progress, as a result both of state commitment and federal financial assistance, technical support, and clear accountability.

- The Omnibus Budget Reconciliation Act of 1993 authorized enhanced Federal financial participation at the 75 percent rate for statewide automated child welfare information systems (SACWIS). This enhanced level of funding was initially authorized for three years, through September 30, 1996, but was later extended to September 30, 1997. Federal funds continue to be available at the 50 percent match rate. To date, 19 States have SACWIS systems that are fully operational.
- On the same day that guidance was issued to the States on applying for SACWIS funds, the Department also released the final regulations for the Adoption and Foster Care Analysis and Reporting System (AFCARS). The AFCARS collects automated case-level information on all children in foster care for whom the state child welfare agency has responsibility for placement, care or supervision. It also collects information on children whose adoptions from the foster care system have been finalized. AFCARS data are reported semi-annually.
- We are now seeing substantial improvements in the completeness and quality of the AFCARS data after an initial developmental period. To encourage the submission of timely and accurate data, our regulations outlined a penalty structure for data submissions that are missing data or that fail certain quality checks. No penalties applied during the first three years (or six reporting periods) of data collection. However, beginning with the submission of data for the period of October 1, 1997 - March 31, 1998, states are liable for penalties, if they fail to correct the problem within six months. Consequently, we are seeing significant improvements in the data. All states and the District of Columbia are now submitting data, whereas in the past only 33 - 37 States submitted data for any given reporting period.
- In the area of child abuse and neglect, we are also making progress in the reporting of data through the National Child Abuse and Neglect Data System (NCANDS). Almost all states have submitted aggregate data for eight consecutive years (1990-1997) on the numbers and characteristics of children reported to child protective services, providing the most complete trend data ever collected on child abuse and neglect. In response to amendments made in the 1996 reauthorization of the Child Abuse Prevention and Treatment Act, the number of data elements on which states report annually also has been expanded. In addition to progress in the submission of aggregate data, we are seeing

increasing numbers of states submit automated case-level data that enables us to undertake more complex analyses.

The investments of financial and technical assistance resources we are making in information systems and data collection are critical for at least two reasons. First, new information systems will provide State child welfare agencies -- from administrators down to caseworkers -- with access to expanded and more timely information that will better enable them to serve children and families. Second, the systems will be capable of collecting and reporting the data that States and we need to be able to track outcomes.

Supporting Successful Performance: Technical Assistance, Training, Research, and Demonstration

At the same time that the federal government has a critical role in accountability for results, we also believe it is essential for us to invest in training and technical assistance to build the capacity of states to implement legislative reforms and provide quality services. For instance, the Children's Bureau in ACF provides over \$6 million annually for 10 resource centers whose role is to build the capacity of state, local, tribal and other publicly administered or publicly supported child welfare agencies. These resource centers are organized around subject areas (e.g. Special Needs Adoptions, Child Maltreatment, Permanency Planning, Organizational Development, Legal Issues, etc.) and can provide specialized assistance in each of these areas tailored to state needs. The resource centers also develop written materials for broad distribution, such as the guide on the implementation of the Multiethnic Placement Act and the Interethnic Adoption provisions developed by the National Resource Center on Legal and Court Issues, which is operated by the American Bar Association's Center on Children and the Law. Through training grants, we also have seeded partnerships across the country between schools of social work and public child welfare agencies to improve the training of front line workers and managers.

Another important area of federal activity is the support of research and innovation. I would like to highlight two different areas of activity that will increase our understanding of the child welfare system and promote knowledge about innovative practices in service delivery and financing.

Thanks to the authorization of funds for a longitudinal study of child welfare included in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, we have awarded a contract to the Research Triangle Institute to conduct a National Survey of Child and Adolescent Well-Being. This study will provide nationally representative, longitudinal information on the functioning, service needs and service utilization, and outcomes for children and families who are referred to the child welfare system within a one-year period. We expect that the first report from this study, describing the characteristics of the children and families in the sample will be available by the end of 2000.

A second area of activity that we expect to generate important new information is the title IV-E child welfare waiver demonstrations, which this committee was instrumental in creating.

Through the end of FY 98, 18 states – the maximum number allowed by the statute -- have received approval for demonstration projects, and we currently are awaiting state responses to the announcement seeking applicants for FY 99 demonstrations. The demonstration projects involve waivers of certain provisions of title IV-E and related regulations, and each one includes a rigorous evaluation. The demonstrations cover a wide range of topics, from broad systems reform strategies to specific projects that focus on addressing substance abuse, increasing the number of adoptions, and testing strategies for assisted guardianship.

Future Directions

We are at a critical juncture in child welfare. We have strengthened the legal framework for children. We have increased attention to outcomes. We have begun to address the capacity needs of both courts and agencies. We have started to build more collaborative arrangements with other human service agencies whose services are critical if we are to meet the needs of children and families in the child welfare system. We have also begun to tap the broader resources of communities to support families before they go into crisis and to help find new families for children in foster care who cannot return home safely.

Of course, there is a great deal remaining to be accomplished. Far too often, despite the dedication and creativity of state and local policy-makers and the extraordinary commitment of front-line child welfare workers, state child welfare systems are overwhelmed by high caseloads, burn-out and high turnover among workers; lack of training and experience among both workers and supervisors; lack of communication across agencies and between state agencies and the community; unclear or shifting missions; and, information systems that – despite the recent improvements catalogued above – far too often feel like a burden rather than a support to staff. Under these circumstances, changes in policy can take a very long time to translate into true improvements in services for children. And under these circumstances, children's well-being – and, too often, even children's lives -- are at risk.

Now is the time to continue the momentum of change and seize the opportunities that federal and state policy have created – opportunities that build on the dramatic improvements in adoption, the shift to a focus on results, the stronger information systems, and the national investment in technical assistance, research, and demonstration. This is a critical time for the states to take the next steps to move reform from the policy arena to changes in the frontline practice of every child welfare worker, and to build strategies that go far beyond the child welfare agency to involve every community. At the Federal level, we must remain an active participant in helping states achieve these improvements, by exercising leadership, by providing resources and assistance, and by holding the states accountable for achieving positive results. As part of this leadership, we must finalize regulations for monitoring and fully implement the results-based approach to federal oversight.

There also is at least one additional area that warrants increased national attention through passage of federal legislation -- the issue of children aging out of the foster care system. Just last month, this Subcommittee held a hearing on the issue of how to help youth emancipated from

foster care become self-sufficient, productive and healthy adults. As you know this is an issue which the President identified as a priority in his FY 2000 budget, and on which we have submitted proposed legislation. We are very much looking forward to working with you to enact a bipartisan bill this year. In doing so, I believe we will make a difference in the lives of the estimated 20,000 young people who are emancipated from foster care each year, just as we have helped to make a difference in the lives of thousands of children who now are living in adoptive families, rather than remaining in the limbo of foster care.

Thank you for the opportunity to appear before the Subcommittee today. I would be pleased to answer any questions you may have.



U.S. Senator
Jay Rockefeller

*file
child welfare*

www.senate.gov/~rockefeller

Fax Cover Sheet

To: Nicole Rabner

From: Barbara

Date: 2-12-99

of Pages (Including Cover) _____

Message:

*Let me know what you think.
I believe the history is the most
compelling.*

Barbara

**Problems with transmission call
(202) 224-6472**

2/10 -- Draft

Why We Oppose a Child Welfare Block Grant

- ◆ The foster care entitlement represents a federal guarantee of protection and support for some of our most vulnerable citizens -- abused and neglected poor children who are at risk in their own homes. Our society should maintain this basic safety net.
- ◆ Some argued in 1996 that the AFDC entitlement encouraged dependency among parents and had to be ended for that reason. No such argument exists for the foster care entitlement -- abused and neglected children are victims in need of protection. They do not have a choice about their circumstances.
- ◆ Some argue that the open-ended foster care funding leads states to leave children in foster care inappropriately to be able to draw down federal dollars. But foster care is a match program -- states have to put up some of their own money to tap federal money. Further, the 1997 Adoption and Safe Families Act puts strict time requirements on states to either return children in foster care to their birth homes or to find adoptive homes for them.
- ◆ Many experts believe the need for foster care could be reduced if more was invested in prevention. This can be done by improving the federal effort funded in the "IV-B" child welfare programs or by expanding the uses of foster care funds -- not by ending the safety net of the foster care entitlement.
- ◆ The child welfare system is part of a larger social services network. It is vulnerable to substantial increases in demand for foster care as a result of worsening social conditions beyond it -- such as the crack epidemic of the late 1980's. A child welfare block grant will be less able to handle any such upswing in the need for foster care should any similar crisis occur.
- ◆ The 1996 welfare law is a huge experiment in how we help families in poverty. Even if it proves helpful to most of these families, it would only take a modest increase in the number of families disintegrating for foster care caseloads to go up substantially. If only five percent of the children currently on TANF end up in foster care as a result of time limits and sanctions, it would double the foster care caseload.
- ◆ As GAO recently reported, states and localities are beginning to test out managed care approaches to taking care of abused and neglected children in the child welfare system. Given the mixed record of managed care health plans, we should maintain the protection of the foster care entitlement for these vulnerable children
- ◆ Congress has enacted a series of major changes in recent years on child welfare policy that are still in the process of being implemented. Vital insights may be gained during implementation which should be carefully considered prior to major financing changes.

Chronology of policy changes in federal child welfare:

- 1993: Creation of a new federal program for prevention — family support and family preservation — under Title IV-B, part II.
- Legislation specified modest funding in the first year to encourage states to use the first year's funding for planning, with increasing funding levels in later year. GAO studies in 1995 and 1997 documented encouraging results in some states from the planning period.
- 1994: HHS was directed to create a new review system for child welfare which required states to adjust state plans. HHS authorized 5 waivers for flexibility between Title IV-B and Title IV-E.
- 1996: Major welfare reform was enacted, eliminating the AFDC entitlement for needy families with children. Child welfare programs and the IV-E entitlement were preserved, but changes were made to allow for-profit organizations to receive reimbursements.
- 1997: The Adoption and Safe Families Act (ASFA) was passed, dramatically changing the child welfare system to focus on the child's safety, health and permanency. New, stringent time lines were imposed on states agencies in order to achieve permanency for children. The law offers bonuses to states that increase the amount of adoptions. A provision was included in the law to study the potential for using outcome measures for child welfare systems. Additional waivers were authorized. Title IV-B, part II was reauthorized for three years and expanded to include adoption promotion and support.
- 1998: HHS issued new proposed regulations for comments on restructuring the review process for child welfare child protections. Final regulations are expected in 1999. The Department also issued proposed regulations for implementation of the parts of ASFA.
- 1999: HHS issued its report and is seeking comments on potential outcome measures for child welfare as a first step toward moving toward outcome performance measures. The Department should issue additional proposed regulations for the remaining implementation provisions of ASFA. HHS must analyze adoptions promotion and provide bonuses to states that increase adoptions.



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

370 L'Enfant Promenade, S.W.

Washington, D.C. 20447

STATEMENT BY

OLIVIA A. GOLDEN

ASSISTANT SECRETARY FOR CHILDREN AND FAMILIES

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

ON

OVERSIGHT OF THE CHILD WELFARE SYSTEM

BEFORE THE

HOUSE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

U.S. HOUSE OF REPRESENTATIVES

APRIL 22, 1999

Madam Chairman and Members of the Subcommittee,

Thank you for the opportunity to appear before you today to discuss federal oversight of the child welfare system: the network of state, local, and private organizations that seeks to ensure safety, permanence, and well-being for our nation's most vulnerable children, those children who have experienced or are at risk of child abuse and neglect. This work is enormously important and I want to thank the Committee for your leadership and commitment. I am also pleased to have the opportunity to report to you on our success in increasing the number of children adopted from the foster care system.

These last five years have seen extraordinary changes in the laws and procedures affecting child welfare and significant investment in resources designed to strengthen systems and improve outcomes for hundreds of thousands of children and families. In fact, a significant achievement of the last five years is that today all parties involved in child welfare – from the federal government to state government to private providers – are looking at outcomes and working to determine how to improve them. The changes that we and the states have made have the potential to make significant improvements in the results achieved from these services. Among the most important accomplishments:

- Thanks to the Administration's Adoption 2002 initiative, federal legislation, and innovative activities supported by states and private foundations, we have made great progress in finding adoptive families for children waiting in foster care. Between 1996 and 1997, the number of children adopted grew from 28,000 to 31,000 and it appears the increase in 1998 was even greater.
- In response to the Adoption and Safe Families Act, 33 states have passed legislation to promote better outcomes for children, including provisions that strengthen the focus on safety by clarifying circumstances when it is neither necessary nor appropriate to reunify children with their parents.
- We have made significant investments in new automated systems that can generate the data and information needed by states and the federal government to track results and manage cases effectively.

Yet we still have a long way to go. Because of the continuing problems of child abuse and substance abuse and other factors, the number of children in foster care continues to grow and too many children remain in care for too long; the median length of stay nationally is 21 months. And approximately 18 percent of children have been in care for 5 years or more. There are simply too many children who drift in foster care wondering to whom they belong.

In my testimony, I would like to provide an overview of the child welfare system today, highlight the key actions that the Congress and the Administration have taken to strengthen the national framework and national oversight of child welfare, and summarize the results we have seen so far. I would also like to identify the most important next steps that we must take on behalf of children.

Children and the Child Welfare System

Each year, child protective services (CPS) agencies investigate reports involving almost 3 million children, nearly a million of whom are found to be victims of substantiated or indicated abuse and neglect. These figures have begun to decline slightly over the past several years, following two decades of steady increases in the number of children reported to CPS. While the majority of children coming to the attention of CPS remain with their families, about 15 to 20 percent of the victims of abuse and neglect must be removed from their homes and placed in foster care for some period of time in order to ensure their safety. Approximately 520,000 children were in foster care as of the end of March 1998, an increase of 28 percent over the estimated 406,000 children in care at the end of 1990.

Every day, front line workers, administrators and judges across the country are called on to make incredibly difficult decisions about the lives of these children and their families. How can they best ensure a child's safety? Can a family facing multiple problems be strengthened to provide appropriate care and nurturing of its children? Can a child's need for a permanent place to call home best be achieved by working with the family of origin, or should an adoptive family be sought?

The child welfare system is complex--involving many organizations, institutions, and individuals. Public child welfare agencies, other public human services agencies, juvenile courts, private service providers and, of course, families themselves, all share responsibility for ensuring children's safety, permanence and well-being. Historically, child welfare services began largely as a function of private agencies and later developed as a responsibility of state and local governments. Ultimately, it is state government that has primary responsibility for carrying out child welfare programs and for protecting children in their care and custody. And, it should be noted states retain significant latitude in the design and delivery of child welfare services to help fulfill this responsibility in a manner that best meets the needs of their jurisdiction. Consequently, there is significant variation across states in practice and policy, including distinctions in the definitions of abuse and neglect and the standards for intervening in family life.

The federal role in child welfare is a relatively recent historical development. Today, the federal government's role includes creating and implementing a common policy framework in which child welfare services are to be carried out; sharing in the financing of child welfare services; and, holding states accountable both for using federal dollars in an appropriate manner and for achieving the results these programs are intended to accomplish. The federal role also includes helping to establish goals and priorities that provide direction to states; promoting innovation in service delivery; funding research and evaluation that help us to understand the dynamics of the child welfare system and the practices that can lead to better results; and, providing technical assistance to help states and localities strengthen their programs.

Increases in Adoption

In at least one area of child welfare, the adoption of children from the foster care system, we already have begun to see positive changes resulting from the reforms in federal and state laws and the increased federal attention being paid to child welfare issues. In November 1996, the Administration launched the "Adoption 2002" initiative, the centerpiece of which called for doubling the number of children who are adopted from the foster care system by the year 2002. This ambitious and specific goal, along with a set of strategies to reach the goal, have served to elevate the importance of adoptions, hold states accountable for their actions, and reward progress in increasing the number of adoptions.

The Congress, in responding to the President's initiative, made key legislative reforms and by authorizing and appropriating funds for the adoption incentive program, provided vital leadership to encourage greater state activity. The results have been impressive. In fiscal year 1997, there were approximately 31,000 children adopted from the foster care system, up from about 28,000 the year before. Preliminary analyses of data for fiscal year 1998 suggest that there was an even greater increase in adoptions last year. And, the fact that there is now national attention being paid to the number of adoptions has prompted the states to improve their collection and reporting of information on children being adopted from foster care. These improved reporting systems allow states to identify and solve problems sooner and help us all better track states' progress.

Strengthening the National Framework for Child Welfare

The success in adoption reflects a part of the work we have done together to strengthen the national framework for child welfare. Over the last several years, the Administration and Congress, working together in a bipartisan manner, have passed critically important child welfare reform legislation, including the Adoption and Safe Families Act, the Multiethnic Placement Act of 1994 and the Interethnic Placement provisions of 1996. Together, these laws:

- make it clear that ensuring children's safety and well-being is the first consideration of the child welfare system;
- require timely decision-making on behalf of all children in foster care;
- tear down barriers to adoption, whether based on racial discrimination, geographic boundaries or simply outmoded assumptions about which children are adoptable;
- provide additional resources for services and encourage greater collaboration to create a network of supports for families at risk or in crisis; and
- place increased emphasis on accountability and the achievement of positive outcomes for children and families.

In response to these changes in federal law, we have held states accountable for promptly bringing their laws and policies into compliance. After the passage of the Multiethnic Placement Act, for instance, we found that 29 states and the District of Columbia had laws or policies that allowed race-based discrimination in foster care and adoption placements and we worked with them to eliminate discriminatory policies. Similarly, to ensure that states would promptly change laws as required by the passage of the Adoption and Safe Families Act (ASFA), we provided technical assistance for state legislatures through the National Conference of State Legislatures and others at the same time that we made clear to states the funding consequences of failure or delay in passing appropriate legislation. As of April 1, 1999, 33 states have passed the appropriate legislation to come into compliance with ASFA and another 7 states have passed legislation that is now being reviewed by ACF to determine if it does comply. Two states have passed laws that do not fully conform to ASFA and we will work with them to correct these problems. The remaining states either have not begun a legislative session since passage of ASFA or have legislation that has been introduced but not yet passed. We will continue to hold states accountable to ensure that all come into compliance with ASFA's reforms.

Focus on Results

A key part of our strategy for improving child welfare since early in this Administration has been a focus on developing the capacity to measure outcomes and hold all partners in the system accountable for improved performance. The progress we have made in adoptions demonstrates the effectiveness of this strategy. Tracking adoption outcomes, setting goals for the future, making those goals visible, and providing fiscal incentives tied to results have been key elements of this successful strategy. Another key element, described more fully below, has been the improvement of state capacity to measure adoptions as well as other outcomes, which has required a sustained effort to improve dramatically the quality of state information systems. To push the results agenda beyond adoption and hold all partners in the child welfare system accountable for the key goals of safety, permanence, and well-being, we must build on the knowledge we have attained through the adoption strategy and three key accomplishments:

- As required in the Adoption and Safe Families Act, the Department has developed, in consultation with the field, an initial list of results measures that can be used to gauge State performance in ensuring child safety and permanence. The list has been published for comment in the Federal Register, and we are now reviewing input received from almost two-thirds of the states, at least 12 organizations, a number of researchers, several members of Congress, and other interested individuals.
- The Department has conducted 24 pilot tests of an outcomes-based monitoring system and has published proposed regulations that draw substantially on the lessons from those pilots. We currently are reviewing public comments on the regulations and intend to publish a final rule before the end of this year.

- As a result of federal financial assistance, technical support, and clear accountability that includes phased-in penalties, states are now collecting and able to report much more timely and accurate data on foster care and adoptions. Reporting on child abuse and neglect also has improved considerably, as a result of both financial and technical assistance.

Each of these elements which focus on results is described more fully below.

ASFA Requirement for National Child Welfare Outcome Measures

To develop a list of measures that would reflect the best available knowledge in the field, the Department engaged in extensive consultation, including focus group discussions at major child abuse and child welfare conferences. We also formed a consultation work group comprised of state and local administrators, state elected officials, advocates, researchers, and others, who met twice and participated in several conference calls to help select and refine measures and discuss their appropriate use. Since publication of the initial list in the Federal Register in February, we have been reviewing the extensive comments that we received and analyzing the availability of data to support suggestions that were made. We plan to finalize the list of measures soon and will then submit the first annual report based on these measures later this year.

Child Welfare Monitoring

As you know, another area where we have been working to increase the focus on outcomes is in our proposed revision of the child welfare monitoring process. In fact, one reason we have been able to make good progress in response to the ASFA requirements for outcome measures is that, as part of our work to revise child welfare monitoring, we already had articulated the basic goals of the child welfare system: child safety, permanence, and child and family well-being. These three goals are now well accepted by the child welfare field and are being used by many states in their own work with child outcome measures.

We had begun work to revise our process for conducting both programmatic reviews and title IV-E foster care eligibility reviews in 1994, when Congress adopted legislation requiring a new approach. The law required the Department, in consultation with state agencies, to promulgate regulations for review of state child and family services programs in order to determine whether programs are in substantial conformity with applicable state plan requirements and federal regulations. Among other requirements, the statute said that the regulations should afford the states an opportunity to develop and implement a corrective action plan, receive technical assistance, and rescind the withholding of funds if a state's failure to conform is ended by successful completion of a corrective action plan.

We realized from the beginning that this statutory requirement offered an important opportunity to redesign the monitoring system to focus on outcomes rather than process and to dramatically improve the way the child welfare system works for children. At the same time, we realized that

taking on such an ambitious goal would require major changes in the previous system and that no one person or organization had the answers for how to do it. Therefore, following passage of the new law, we held numerous focus groups to gain public input into the revision of the procedures used for both programmatic and financial reviews. In addition, we determined that we would have to go out and conduct pilot reviews in order to design and field-test an effective and practical way of assessing state performance with an outcome focus. This entire process did result in a delay in issuing regulations for longer than any of us would have wanted, but provided invaluable insight into the major re-design of the monitoring system.

Before publishing proposed regulations, we conducted a total of 24 pilot reviews--12 Child and Family Services Reviews and 12 title IV-E Foster Care Eligibility Reviews. These pilot reviews suggested a number of lessons about approaches to monitoring, and they also served to hold states accountable in new ways as they uncovered both systemic problems and strengths that the old approach to monitoring had not identified.

Among the key lessons from the pilots that drove the design of our proposed monitoring system:

- A review team comprised of both federal and state staff fostered working partnerships that more effectively assisted states in identifying strategies for corrective action and technical assistance.
- In the program reviews, where we went beyond state officials and included local caseworkers, recipients of services, foster parents, and other stakeholders in the process, we found that this strategy broadened the perspective of the review.
- An emphasis on program improvement planning in the eligibility reviews led to specific recommendations for improving the accuracy of title IV-E eligibility determinations, foster care licensing, and the quality of services provided to children.
- Structuring a review process around the outcomes we want for children and families -- safety, permanence and well-being -- helped to reorient all parties involved in the review process to focus on the improvements needed to assure those outcomes.
- By contrast, focusing solely on procedural steps and on the case records that document compliance with those steps is insufficient for improving performance in child welfare services. As reviewers looked at the case folders that had been designed to meet previous requirements, they found that these folders often reflected a focus only on documenting procedural steps. As one reviewer noted, "We got what we asked for." The case folders often did not reflect a focus on the key goals of safety, permanence, or well-being of children.

The work we did and the lessons we learned through the pilot review process informed the development of a Notice of Proposed Rulemaking (NPRM) relating to both title IV-E foster care eligibility reviews and Child and Family Services State Plan Reviews. In our NPRM, published on September 18, 1998, we outlined the new procedures that we are proposing for both types of reviews. In response to the Federal Register notice, we received 176 letters primarily from state and local child welfare agencies, national and local advocacy groups for children, educational institutions, and individual social workers. We also appreciated receiving the thoughtful comments of several members of Congress. We have been carefully reviewing and analyzing comments and working to complete the final rule.

Child Welfare Information Systems

The third critical building block of a results-based strategy for improving child welfare performance is improvement in child welfare information systems. The last several years have seen dramatic progress, as a result both of state commitment and federal financial assistance, technical support, and clear accountability.

- The Omnibus Budget Reconciliation Act of 1993 authorized enhanced Federal financial participation at the 75 percent rate for statewide automated child welfare information systems (SACWIS). This enhanced level of funding was initially authorized for three years, through September 30, 1996, but was later extended to September 30, 1997. Federal funds continue to be available at the 50 percent match rate. To date, 19 States have SACWIS systems that are fully operational.
- On the same day that guidance was issued to the States on applying for SACWIS funds, the Department also released the final regulations for the Adoption and Foster Care Analysis and Reporting System (AFCARS). The AFCARS collects automated case-level information on all children in foster care for whom the state child welfare agency has responsibility for placement, care or supervision. It also collects information on children whose adoptions from the foster care system have been finalized. AFCARS data are reported semi-annually.
- We are now seeing substantial improvements in the completeness and quality of the AFCARS data after an initial developmental period. To encourage the submission of timely and accurate data, our regulations outlined a penalty structure for data submissions that are missing data or that fail certain quality checks. No penalties applied during the first three years (or six reporting periods) of data collection. However, beginning with the submission of data for the period of October 1, 1997 - March 31, 1998, states are liable for penalties, if they fail to correct the problem within six months. Consequently, we are seeing significant improvements in the data. All states and the District of Columbia are now submitting data, whereas in the past only 33 - 37 States submitted data for any given reporting period.

- In the area of child abuse and neglect, we are also making progress in the reporting of data through the National Child Abuse and Neglect Data System (NCANDS). Almost all states have submitted aggregate data for eight consecutive years (1990-1997) on the numbers and characteristics of children reported to child protective services, providing the most complete trend data ever collected on child abuse and neglect. In response to amendments made in the 1996 reauthorization of the Child Abuse Prevention and Treatment Act, the number of data elements on which states report annually also has been expanded. In addition to progress in the submission of aggregate data, we are seeing increasing numbers of states submit automated case-level data that enables us to undertake more complex analyses.

The investments of financial and technical assistance resources we are making in information systems and data collection are critical for at least two reasons. First, new information systems will provide State child welfare agencies -- from administrators down to caseworkers -- with access to expanded and more timely information that will better enable them to serve children and families. Second, the systems will be capable of collecting and reporting the data that States and we need to be able to track outcomes.

Supporting Successful Performance: Technical Assistance, Training, Research, and Demonstration

At the same time that the federal government has a critical role in accountability for results, we also believe it is essential for us to invest in training and technical assistance to build the capacity of states to implement legislative reforms and provide quality services. For instance, the Children's Bureau in ACF provides over \$6 million annually for 10 resource centers whose role is to build the capacity of state, local, tribal and other publicly administered or publicly supported child welfare agencies. These resource centers are organized around subject areas (e.g. Special Needs Adoptions, Child Maltreatment, Permanency Planning, Organizational Development, Legal Issues, etc.) and can provide specialized assistance in each of these areas tailored to state needs. The resource centers also develop written materials for broad distribution, such as the guide on the implementation of the Multiethnic Placement Act and the Interethnic Adoption provisions developed by the National Resource Center on Legal and Court Issues, which is operated by the American Bar Association's Center on Children and the Law. Through training grants, we also have seeded partnerships across the country between schools of social work and public child welfare agencies to improve the training of front line workers and managers.

Another important area of federal activity is the support of research and innovation. I would like to highlight two different areas of activity that will increase our understanding of the child welfare system and promote knowledge about innovative practices in service delivery and financing.

Thanks to the authorization of funds for a longitudinal study of child welfare included in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, we have awarded a

contract to the Research Triangle Institute to conduct a National Survey of Child and Adolescent Well-Being. This study will provide nationally representative, longitudinal information on the functioning, service needs and service utilization, and outcomes for children and families who are referred to the child welfare system within a one-year period. We expect that the first report from this study, describing the characteristics of the children and families in the sample will be available by the end of 2000.

A second area of activity that we expect to generate important new information is the title IV-E child welfare waiver demonstrations, which this committee was instrumental in creating. Through the end of FY 98, 18 states – the maximum number allowed by the statute -- have received approval for demonstration projects, and we currently are awaiting state responses to the announcement seeking applicants for FY 99 demonstrations. The demonstration projects involve waivers of certain provisions of title IV-E and related regulations, and each one includes a rigorous evaluation. The demonstrations cover a wide range of topics, from broad systems reform strategies to specific projects that focus on addressing substance abuse, increasing the number of adoptions, and testing strategies for assisted guardianship.

Future Directions

We are at a critical juncture in child welfare. We have strengthened the legal framework for children. We have increased attention to outcomes. We have begun to address the capacity needs of both courts and agencies. We have started to build more collaborative arrangements with other human service agencies whose services are critical if we are to meet the needs of children and families in the child welfare system. We have also begun to tap the broader resources of communities to support families before they go into crisis and to help find new families for children in foster care who cannot return home safely.

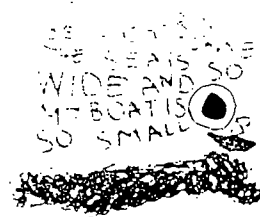
Of course, there is a great deal remaining to be accomplished. Far too often, despite the dedication and creativity of state and local policy-makers and the extraordinary commitment of front-line child welfare workers, state child welfare systems are overwhelmed by high caseloads, burn-out and high turnover among workers; lack of training and experience among both workers and supervisors; lack of communication across agencies and between state agencies and the community; unclear or shifting missions; and, information systems that – despite the recent improvements catalogued above – far too often feel like a burden rather than a support to staff. Under these circumstances, changes in policy can take a very long time to translate into true improvements in services for children. And under these circumstances, children's well-being – and, too often, even children's lives -- are at risk.

Now is the time to continue the momentum of change and seize the opportunities that federal and state policy have created – opportunities that build on the dramatic improvements in adoption, the shift to a focus on results, the stronger information systems, and the national investment in technical assistance, research, and demonstration. This is a critical time for the states to take the next steps to move reform from the policy arena to changes in the frontline practice of every

child welfare worker, and to build strategies that go far beyond the child welfare agency to involve every community. At the Federal level, we must remain an active participant in helping states achieve these improvements, by exercising leadership, by providing resources and assistance, and by holding the states accountable for achieving positive results. As part of this leadership, we must finalize regulations for monitoring and fully implement the results-based approach to federal oversight.

There also is at least one additional area that warrants increased national attention through passage of federal legislation -- the issue of children aging out of the foster care system. Just last month, this Subcommittee held a hearing on the issue of how to help youth emancipated from foster care become self-sufficient, productive and healthy adults. As you know this is an issue which the President identified as a priority in his FY 2000 budget, and on which we have submitted proposed legislation. We are very much looking forward to working with you to enact a bipartisan bill this year. In doing so, I believe we will make a difference in the lives of the estimated 20,000 young people who are emancipated from foster care each year, just as we have helped to make a difference in the lives of thousands of children who now are living in adoptive families, rather than remaining in the limbo of foster care.

Thank you for the opportunity to appear before the Subcommittee today. I would be pleased to answer any questions you may have.



Children's Defense Fund

**TESTIMONY OF
THE CHILDREN'S DEFENSE FUND**

**Hearing on Child Protection Oversight
Before the
Subcommittee on Human Resources of the Ways and Means Committee
U.S. House of Representatives
April 22, 1999
Washington, D.C.**

**Presented by:
MaryLee Allen
Director, Child Welfare and Mental Health
Children's Defense Fund
202-662-3573/FAX202-662-3550**

25 E Street NW
Washington, DC 20001
Telephone 202 628 8787
Fax 202 662 3510
E-mail
cdinfo@childrensdefense.org
Internet
www.childrensdefense.org

Good morning. I am MaryLee Allen, Director of Child Welfare and Mental Health at the Children's Defense Fund. The Children's Defense Fund (CDF) is a privately funded public charity dedicated to providing a strong and effective voice for all the children of America. As we seek to Leave No Child Behind, CDF pays particular attention to the needs of poor and minority children and children with disabilities. CDF has never taken government funds.

I appreciate your invitation to testify today on behalf of CDF at the Subcommittee's hearing on Child Protection Oversight. I am pleased to offer CDF's recommendations for some of the steps we believe are necessary to better ensure that children and families actually receive the protections and services for which they are eligible under federal child welfare programs.

As you know, this is not a new concern for the Children's Defense Fund. CDF has been working for more than two decades to enhance the implementation and enforcement of federal and state laws designed to protect children and families. Our 1979 report, *Children Without Homes: An Examination of Public Responsibility to Children in Out-of-Home Care*, made a number of recommendations that were incorporated into the 1980 Adoption Assistance and Child Welfare Act. Since then we have sought, often in partnership with this Subcommittee, to add protections to federal laws and improve enforcement mechanisms. We have provided technical assistance to state and local officials and advocates who are implementing the laws, monitored their impact, sought to promote best practices, and, in some cases, sought relief for classes of children who were being denied the protections to which they had a right under federal law.

With that history, I appear before you today with mixed emotions. On the one hand, it is sad to reflect on the fact that while federal child welfare reform began in earnest about 20 years ago, today we are still struggling to ensure meaningful federal oversight for some of our nation's most vulnerable children and families. Too many of the problems in the child welfare system today are the same ones that CDF chronicled in *Children Without Homes*. Yet, during these two decades, a whole generation of children has been born and grown to adulthood, too many of them with only the state as parent.

On the other hand, I recognize the important progress that has been made in some communities and states, some of which you will hear about from the second panel today. The important steps that have been taken to increase public accountability for what happens to children and families are encouraging. This Subcommittee over the past decade has strengthened avenues for overseeing the care children and families receive. There has been continuing recognition of the importance of core protections for children who have been abused or neglected. States have been given the flexibility to experiment with improved approaches to service delivery through the federal Child Welfare Demonstration Program, that Chairman Johnson played such an important role in developing during her earlier tenure on the Subcommittee. Recent improvements in the establishment of data systems and increased recognition of the importance of a results-based accountability for states also are causes for hope. The September 1998 publication by the Department of Health and Human Services (HHS) of the long awaited guidance on the Child and Family Service Reviews and the Title IV-E Program

Eligibility Reviews, prompted by Congress' 1993 legislation in this area, also represents important progress.

We can work together to pass the best new laws, but without adequate enforcement, they offer little to children and families. Therefore, we commend you for holding this hearing today to examine how we can all do a better job to ensure that the protections and supports for children and families in federal law, including those in the recently enacted Adoption and Safe Families Act (ASFA), can really work to benefit children.

In my time this morning, I would like to do two things. First, review with you what CDF considers to be some of the core components of a meaningful system of federal oversight for child protection, and to suggest specific steps that the Subcommittee and Congress could take in regard to each of them to better promote safety and permanence for children. Second, discuss in more detail some of CDF's specific recommendations for improving the system of federal Child and Family Services reviews proposed last September by HHS.

KEY COMPONENTS OF FEDERAL OVERSIGHT OF CHILD PROTECTION

A federal review system that holds states accountable for their care of children and the operation of their child welfare systems is key to effective federal oversight. However, CDF believes that as HHS works to establish a compliance or conformity monitoring system that will fairly and equitably judge state performance and its true impact on child safety, permanence, and well-being, that significant attention is needed on at least three other fronts at the same time. These include the development of 1) increased system capacity within child welfare and related agencies; 2) improved data; and 3) expanded opportunities for enhanced public and judicial review of system performance. In each, we also believe that there are steps for the Subcommittee to take now to help ensure children and families will benefit from the services and protections offered them through federal law.

Increased system capacity to promote child safety and permanence.

Good monitoring systems alone will not protect children, unless at the same time steps are taken to improve the capacity of the public systems charged with the care of abused and neglected children to meet their needs in the manner mandated by federal law. Improved capacity to get the job done means ensuring increased resources and training to provide children what they need within the timeframes within which they need it to achieve improved outcomes.

CDF believes that Congress has a unique opportunity right now -- as a result of the Adoption and Safe Families Act (ASFA) -- to enhance the child welfare system's ability to better offer children and families what they need.

ASFA reinforces the importance of safety and permanence for children. CDF urges the Subcommittee to take steps immediately to help ensure that states have the capacity to move the

100,000 children for whom adoption is already the goal into permanent families. This means ensuring that states are doing four things:

1. Promptly identifying and reviewing the cases of children who were already in care for 15 out of the most recent 22 months on December 17, 1997, when ASFA was enacted;
2. Determining the best permanency plans for them, and the steps necessary to achieve permanence, including termination of parental rights and adoption;
3. Assessing what it will take to get the waiting children into permanent homes consistent with those plans, what is needed to address the backlog, and how this contrasts with the current capacity of the courts and public and private agencies in the state to accomplish that goal; and
4. Taking action to move these waiting children to permanent homes.

The challenges are enormous. Consider, for example, that the U.S. General Accounting Office has estimated that in Illinois and California alone there are more than 104,000 children who have been in care longer than the 15 out of 22 months. On a smaller scale, there is the city of Cleveland and its surrounding county. A front-page story in the *Cleveland Plain Dealer* at the end of last month announced that 4,500 children in Cuyahoga County must be placed in adoptive homes by the end of next year, as a result of ASFA. This, officials said, is nine times as many children as the county found homes for last year -- a record year for adoptions in the county.

Tasks one and two will have no benefit for children unless the third is acted on as well so the fourth can happen. We recommend that the Subcommittee hold several field hearings before the fall on the implementation of ASFA in order to identify what is needed to eliminate the backlog of children in care who have been identified by states as needing termination of parental rights and adoption. I encourage you to ask judges, state and local administrators, front line workers, parents, foster parents, adoptive parents, and other advocates for children and families what it will take to do the job right for children, and then to help them get it. It is important that it be done right. Children must not be moved prematurely or inappropriately to adoptive families or to families not prepared for the challenges. Post adoption services will be necessary to help adoptive families care appropriately for children with special needs.

It is not sufficient to impose new permanency timelines and then to focus attention only on how to hold states accountable for complying with these timelines. Capacity development is essential. This is especially true given that the "Ways and Means Green Book" notes that virtually all of the funding disallowances that had been made in the Title IV-E Program in the past occurred as a result of states not holding timely periodic reviews and permanency hearings (which at the time were called dispositional hearings). Therefore, it will take special efforts for states to meet even tighter timelines.

Several states already have coupled state reform mandates with systematic efforts to increase the capacity of counties to comply with the new mandates. For example, as Colorado was implementing its Expedited Permanency Planning Program, it asked counties what help they would need to move younger children into permanent families within one year. Requests included more substance abuse, mental health, and domestic violence services, and increased staff. The state also offered cross-system training and technical assistance. As Alabama implemented a series of court-mandated reforms, it also phased in clusters of counties sequentially. This allowed the counties to get special training and new resources to help implement the reforms.

CDF recommends that the Subcommittee undertake a similar approach at the federal level. Extraordinary measures should be taken to ensure that states get the help they need to move children who are waiting for adoption into adoptive families. State agencies and courts that have identified children who have been in care too long, established permanency plans for them, and know what it will take to move them into permanent homes should be made eligible for special one time assistance to help move these children into permanent families. The Strengthening Abuse and Neglect Courts Act (S.708), introduced by Senators DeWine, Chafee, Landrieu, Rockefeller, Levin, Kerry, and Kerrey, begins this process. It includes a backlog grant program to provide one-time assistance to courts to move these cases to termination of parental rights and then on to adoption. Increased specially targeted resources are necessary so that agency and court staff can focus on these cases without neglecting children with other permanency goals or those just entering the system.

This step alone -- carefully clearing the child welfare system of the backlog of children in care who should have been moved to adoptive families many months, and often years, earlier -- will positively impact the futures of these children. It also will impact the futures of hundreds of thousands of other children as well. With fewer children in care and reduced caseloads, the child welfare system will be better able to protect children in the future.

Data systems that allow for internal monitoring and tracking of children and also the comparison of trends across states.

Any meaningful monitoring system is only as good as the quality of the data that are available to it. CDF strongly believes that it will never be possible to track the extent to which children are benefiting from the protections in federal law unless significant improvements are made in the data available at the local, state, and national levels. Data that track the movement of individual children in care can provide important indications about the experiences children are having in care -- both good and bad.

CDF has been talking with this Subcommittee about improved data in child welfare for close to two decades. We had great hopes when the Adoption Assistance and Child Welfare Act was first enacted, that we would finally be able to have some basic data on state performance. Renewed efforts were then made to improve state reporting in 1986.

Now, more than a dozen years later, there finally has been important progress in the establishment of the Adoption and Foster Care Analysis and Reporting System (AFCARS). Efforts also are being made to improve the National Child Abuse and Neglect Data System. These efforts must continue. However, even in their best form, these two systems will offer only a snapshot of the children in care at one point in time. They present a picture of a cross-section of the system, but do not follow individual children or groups of children over time.

More is needed. CDF recommends that the Subcommittee take steps immediately to help all states become part of the MultiState Foster Care Data Archive. The Archive, now maintained, with some federal support, by the Chapin Hall Center for Children at the University of Chicago, was started with five participating states (CA, IL, MI, NY, and TX) and this year will have 11 states (AL, CA, IA, IL, MD, MI, MO, NM, NY, OH and WI). These states together account for about two-thirds of the children in foster care nationally. The Archive is a multi-state database that contains the complete child welfare history of every child who is in the care and custody of the state child welfare agency. The data are comprehensive at the level of the individual child. They are extremely useful in better understanding the movement of children in care, by age, type of placement, and other characteristics, and also in looking across states at things like different entry and exit patterns, lengths of placements, and placement patterns.

Any such investment must be conditioned upon the assurance that these data would be available to HHS, and in some form to the relevant Congressional committees and the public. The states obviously must have access to the data. Such a system would allow more meaningful oversight of the children in care, and would expand opportunities for establishing outcomes that could be measured within states and applied across states. It also increases opportunities to link these data with data on child protection, the courts, Medicaid, and other systems with which the children and families interact. On a related note, we also ask the Subcommittee to support data improvements for the courts similar to those in the pending bipartisan Strengthening Abuse and Neglect Courts Act mentioned earlier.

Opportunities for parent involvement, citizen review, and judicial recourse to address alleged abuses.

A good monitoring system must include federal oversight and improved opportunities for the states to carry out their activities and track the care individual children receive. It must also include opportunities for input from parents and other citizens, and judicial recourse to address circumstances where children or families are denied the services and protections that they are afforded under federal law.

Incentives must be provided for parent involvement in system reform and, where appropriate, in the design and delivery of services to children. Increased parent involvement in case planning and service delivery will help to provide a watchful eye on the system. Certainly there are families who because of the nature of the abuse or neglect involved will have no further contact with their children, but there are many more cases where involvement of the parents at an early stage is essential to ensuring the best interest of the child within the ASFA timelines. Therefore, we are pleased that HHS, in its September 1998 proposed regulations, requires that a

child's case plan be developed jointly with the parent or guardian of the child in foster care. (Sec. 1356.21(g)(1)). Early engagement of the parent, where it is safe and appropriate, is essential so services can be provided and a decision can then be made within the first twelve months of care about the most appropriate permanent plan for the child.

Other citizen involvement in child welfare also is an extremely important means of oversight, and there is a growing body of experience from which to draw.

- Twenty-six states now are using citizens in their regular reviews of foster care cases, required by the Adoption Assistance and Child Welfare Act. The trained citizens on the **foster care review boards** review individual cases, and also bring concerns about policies and practices that are impacting children, both negatively and positively, to the attention of state officials and the public. Guidelines that describe how citizen foster care review boards can be used as an accountability tool are pending in HHS.
- **Court Appointed Special Advocates** (called CASAs) oversee the care the individual children receive and make recommendations to the court. Their combined voices also bring information to the public's attention about the larger barriers that prevent children from getting the services and supports they need. Currently there are 843 CASA programs in the 50 states and the District of Columbia. S. 708, the Strengthening Abuse and Neglect Courts Act, includes funds to expand the CASA program in the largest 15 urban areas in the country and in rural areas as well.
- **Child death review teams**, which include citizens in some states, are in place in at least 48 states, up from 12 states in 1990.
- **Citizen review panels**, mandated by Congress in 1996, as part of the Child Abuse Prevention and Treatment Act (CAPTA) amendments, must be operational by July 1999. The panels are to determine whether state and local agencies are effectively discharging their child protection responsibilities. This includes compliance with the state's CAPTA plan, but also the extent of the child protection agency's coordination with the Title IV-E Foster Care and Adoption Assistance Programs and the child death review teams that are in place in the state.
- **Community child protection** activities underway in a number of states aim to promote increased understanding in the community of the problems children face and increased responsiveness on the part of community leaders, businesses, religious organizations, and others to help to keep children safe and in permanent families. They promote community involvement and oversight and the chance for more prompt attention to problems in the system.

Finally, in any system for federal oversight, it is critically important for children and families who have been wronged by the system to have an opportunity to challenge those wrongs in federal court. As of 1998, child welfare reform lawsuits were pending or completed in

30 states and the District of Columbia. In these jurisdictions, the cases address recurrent, systemic problems in a state or local child welfare system, and seek relief on behalf of classes of children harmed by these problems. Examples of problems addressed in the lawsuits include the inadequacies of case plans and case reviews, preventive and reunification services, termination of parental rights, adoption activities, training of caseworkers and foster parents, staffing, health care, and special services for children with disabilities.

CDF urges the Subcommittee to call upon parents and citizens involved in these activities to learn about what they are observing and hear their recommendations about what it will take to ensure that children are kept safe and placed in permanent families. The young people you heard from last month at the hearing on youths aging out of foster care was a testament to the value of such input. Similarly, attorneys directly involved in child protection litigation should be asked for their views on improving federal oversight. In any system of federal oversight, the views and experiences of these outside entities should be seriously considered and in some cases trigger a federal agency review of compliance.

Meaningful Federal Agency Oversight

My leaving the discussion of federal agency oversight to the last is not intended to suggest its lack of importance. To the contrary, it is an essential part of the monitoring process, but it cannot stand alone, even in its best form.

In discussing federal agency review, I am not going to dwell on the past. The record of the Department of Health and Human Services in the monitoring of state compliance in child welfare has been abysmal through numerous administrations. Now it is time to make it work.

CDF is encouraged by the steps taken by HHS to put a new compliance review system in place that will promote improved permanency, safety, and well-being for children. At the same time, we recognize the challenges involved for both the states and HHS in undertaking the reviews, responding when non-conformity is identified, ensuring that the necessary program improvements are made, and imposing penalties when they are not.

CDF submitted detailed comments to HHS on the September 18, 1998, Notice Of Proposed Rulemaking for Provisions in the Adoption and Safe Families Act, the Multiethnic Placement Act, and the Child and Family Services Review and Title IV-E Eligibility Review and have provided those comments to the Subcommittee staff. This morning, I will summarize just several of CDF's recommendations about the proposed federal review process.

First, CDF believes that there are some key characteristics of the proposed review process that increase the likelihood of its effectiveness and should be retained in the final regulations.

Broad partnership. The review process builds upon partnership and collaboration between the states and HHS, and also broadens the involvement of other interested parties in the state. It recognizes the need for a broad base of community involvement in both the self-assessment and the on-site review. It also provides opportunities for public review and

inspection of all self-assessments, reports of findings, and program improvement plans. In our comments to HHS we recommended that opportunities for external representation on the review team and for public response to the reviews and program improvement plans be expanded. We believe that an expansion will promote broader buy-in to program improvement plans, and help to eliminate the likelihood that a state will gloss over problem areas in the review or steer the review team around them.

More than paper reviews. The proposed review process involves more than a paper review. My discussions with representatives of states involved in the pilots of the review process indicate that the self-assessment has been especially helpful in getting the state to identify real barriers to appropriate service delivery and the causes of those barriers. The requirement that the full review involve face to face interviews with children and families, service providers, foster families, and staff also make it more likely that problems in the actual delivery of services, likely to be missed in a case record review, will be identified.

Opportunity for corrective action. CDF agrees that a fiscal penalty without action first to correct the problems identified harms children. Therefore, we support the HHS proposal for states to correct the problems identified in a review within established timelines, and efforts to hold HHS and states accountable for these timelines.

We also believe, however, that there are a number of areas where the proposed conformity review system must be strengthened. Both the states and HHS should be required to take additional steps to ensure that the process will provide the oversight that children and families deserve.

Clarify and increase penalties. We think it is extremely important that HHS make much clearer to state agencies that they must be in compliance with requirements in law and regulations by a date certain or fiscal penalties will be imposed. The bottom line must be clear. Then HHS can state that it is focusing on partnership and program improvement because it believes that this is the most effective way to ensure conformity with what the law and regulations require to protect children.

Especially in the political context in which so much of the business of human resources is conducted, and where the work of child welfare agencies often is given low priority, the cut off of funds may be the only threat that can trigger corrective action. There may be nothing more compelling to a Secretary of Human Services, who may be several layers removed from the operation of the state's child welfare system, than a notice from the federal government that the state's failure to conform to federal law is depriving that state's abused and neglected children and their families and prospective adoptive families of millions of dollars of support.

On a related note, we believe that the fiscal penalty for lack of substantial conformity, as proposed by HHS, is too modest to provide a real incentive to states to work vigorously to establish the program improvements necessary to protect children. It is troublesome that the funds *exempted* from penalties are the Title IV-E foster care room and board and adoption assistance payments, thereby allowing states to continue with business as usual if a penalty is

imposed. These are the same activities that a state would be most likely to continue if federal funds were cut. We recommend that the pool of funds made subject to penalties should include all the funds subject to state plan assurances. We hope that sufficient program improvements will be made by all states and that penalties will never have to be imposed. But, if they are, they should be applied to all relevant programs.

Increase the capacity of HHS and the states. The success or failure of the proposed review process is totally dependent upon both the capacity of HHS and individual states and we have serious concerns about the adequacy of that capacity, especially given the current staffing limitations within the Children's Bureau and the federal regional offices. Staff expertise is needed for there to be good reviews and good decisions made initially about a state's compliance, and quality technical assistance will be necessary for states to develop quality program improvement plans and make the necessary improvements in a timely fashion. Capacity begins with the quality and experience of those doing the reviews. HHS must assure the state staff and others participating in the reviews that the federal review team will be knowledgeable about all aspects of child welfare practice, the statutory and regulatory requirements against which state performance will be judged, the process for conducting the reviews and determining the level of compliance, and the operation of the child welfare system in the state where the review is being conducted.

The technical assistance also must be high quality. This will mean developing an individually tailored technical assistance package for each state implementing a program improvement plan, and having experts available to provide assistance in the areas identified for improvement. Given how essential technical assistance is to the success of these reviews, we are very concerned by the language in the preamble to the proposed regulations that conditions technical assistance on the Administration for Children and Families "having the resources and funds available." Congress in the 1993 amendments of federal oversight that required HHS to develop a new conformity review process specifically required HHS to make technical assistance available to the states. The lack of technical assistance also was one of the problem areas cited by the HHS Inspector General in that Office's June 1994 report on oversight of state child welfare programs.

Specifying the content on which states will be judged. CDF recommends that changes be made in the proposed regulations for both the self-assessment and the on-site reviews to state more clearly and completely what must be examined. Without some statement of what, at a minimum, states must examine in the self-assessment, there will be no assurance state to state that there has been a comprehensive look at a state's performance with regard to the state's protections for children in the federal child welfare programs. The lack of clarity about the self-assessment is especially troublesome given that the preamble to the regulations says that "the analysis of the self-assessment will provide the focus for the on-site review by identifying particular aspects of State programs that need further review." We recommend, at a minimum, that the outcome measures developed for the annual reports on state performance that were mandated by Section 203 of ASFA should be incorporated in the proposed regulations as measures for assessing state's conformity in the areas of safety, permanence, and well being. We also suggest that the proposed regulations be amended to require that the assessment and reviews

examine all of the state plan requirements that are related to outcomes. These must include provisions such as those that require periodic reviews of the care children receive, including permanency hearings and the new requirement expediting termination of parental rights. It is especially important that these and others be added because many of these provisions were amended by ASFA.

Finally, the sample of cases being examined must be large enough to fairly represent the children and families being served and provide a meaningful assessment of specific outcomes. We are all too familiar with the pitfalls of making policy from anecdote. We agree with HHS on the importance of reviewing cases more intensely and doing more than case record reviews, but we recommend that HHS reconsider the “30 to 50” cases referred to in the preamble to the proposed regulations. Instead, it should develop a randomized method of sampling that will better reflect the different numbers of children served by state agencies and the varied experiences in different jurisdictions within the states.

What can Congress do to increase the opportunity for a meaningful conformity review process? We recommend that the Subcommittee take at least the following steps:

- Reinforce to HHS your concerns about the points I have emphasized above;
- Require the Secretary of HHS to provide estimates of the additional staff and technical assistance resources that will be necessary to make the proposed conformity review process work in a timely manner, and suggestions about how to provide the resources.
- Emphasize to the Secretary of HHS and the President the importance of getting the final regulations on conformity reviews published immediately, so children do not have to go another year without these important protections; and
- Request that HHS notify the Subcommittee of the schedule for the conformity reviews to be held in the states during the first three years, and appropriate follow-up. The follow-up should include: the time frames within which those reviews were actually completed; the associations of the individuals, beyond the representatives of the state and Federal agencies, that participated in the reviews; the outcomes of each of those reviews (including the specific areas to be addressed by the states in their program improvement plans); and the timelines within which the individual state review was completed and substantial conformity, or lack thereof, was identified.

Thank you for the opportunity to make recommendations as you examine improved methods of child protection oversight. The Children’s Defense Fund looks forward to continuing to work with you to ensure safety and permanence for children.



Congressional Research Service • The Library of Congress • Washington, D.C. 20540

**Statement of Karen Spar
of the Congressional Research Service
Before the Subcommittee on Human Resources
House Committee on Ways and Means**

**Hearing on Federal Enforcement of Child Welfare Laws
April 22, 1999**

Good morning, Madame Chairman and Members of the Subcommittee. Thank you for inviting me to testify before you today. I've been asked to address two specific issues in my testimony. First, I've been asked to outline the history of federal child welfare review systems, leading up to the recent proposal of the Administration. And, second, I've been asked to briefly discuss the role played by advocacy litigation in providing public oversight of child welfare programs.

I'd like to preface my comments by noting that, when analysts from the Congressional Research Service (CRS) are asked to testify before Congress, it is typically to discuss some particular analysis or research that we have conducted. However, in this case, I have not conducted a formal CRS study of child welfare review systems or litigation. Rather, I've been asked to testify this morning in my capacity as a nonpartisan observer of federal child welfare policy, and to give the Subcommittee background information that might be useful as it conducts oversight in this area.

Origins of Current Review Proposal

On September 18 of last year, the Department of Health and Human Services (HHS) published a notice of proposed rulemaking in the *Federal Register*. When final, this regulation will establish a new system for federal review of state compliance with requirements under Titles IV-B and IV-E of the Social Security Act. These requirements comprise the bulk of federal policy regarding child welfare services, foster care, and adoption assistance.

The history of this review system goes back almost 20 years, to passage of the Adoption Assistance and Child Welfare Act of 1980. That legislation established Titles IV-B and IV-E in their current form, and specified for the first time certain federal protections for children in state foster care systems. At that time, many of these protections were included in Section 427 of the Social Security Act and were voluntary incentives for states to meet, in order to receive their full allotment of child welfare grant funds. Among these protections, states were required:

- to conduct an inventory of all children in foster care;
- to provide each foster child with a written case plan; and
- to review each foster child's case according to a prescribed timetable, in order to achieve a permanent placement for that child.

The 1980 law also established the current eligibility requirements to determine which children could qualify for federally subsidized foster care payments. These eligibility requirements address the income level of the family from which the child has been removed and the licensing status of the foster care provider where the child has been placed. The requirements also contain provisions that were intended to work together with other parts of the law to protect children in foster care. For example, the 1980 law limited federal reimbursement only for children for whom

“reasonable efforts” were made, to enable them to remain with their family or to return to their family. This provision was meant to reinforce another section of Title IV-E that requires states to make such reasonable efforts for all children in foster care, regardless of whether they are eligible for federally subsidized foster care payments.

In the early 1980s, HHS developed and operated review systems for monitoring state compliance with the Section 427 protections, and with the federal foster care eligibility requirements under Title IV-E. However, beginning in 1989, Congress suspended the collection of penalties resulting from these reviews, and in 1994, Congress directed HHS to develop a new review system altogether. This new system would be established under the regulation that HHS has now proposed.

Problems with Old Review System

Child welfare advocates, state and federal officials, and Members of Congress grew dissatisfied with the earlier review systems for various reasons, both procedural and programmatic. These concerns were expressed during hearings before this and other congressional committees during the late 1980s and early 1990s, and were identified by the HHS Inspector General in a 1994 report. These concerns also were summarized in the preamble to the Administration’s September 18th proposal for a new child welfare review system.

Procedural concerns with the earlier review system included a lack of formal regulations, frequently resulting in confusion about the standards that states were expected to meet. Reviews were conducted retrospectively, sometimes for fiscal years that had long past, so that current practices were not examined. Exacerbating this problem was the late release of final reports by HHS, so their findings and

recommendations were sometimes irrelevant by the time they were issued. State officials had limited ongoing contact with federal regional office staff, so that formal reviews were seen as adversarial and punitive, rather than collaborative and potentially helpful. The reviews were often seen as time-consuming, labor-intensive, and burdensome for the states.

Of greater concern, however, was the perception that the reviews did not result in improved services for children and families. Both Section 427 and Title IV-E eligibility reviews focused on paper compliance with legal requirements. For example, Section 427 reviews primarily identified whether certain mandatory procedures were conducted according to the prescribed timetable, but did not evaluate the quality of the procedures or the outcomes for children. Moreover, states were sometimes held accountable for circumstances beyond their control, such as the schedule of the courts. Likewise, Title IV-E eligibility reviews focused on whether the court had properly documented its finding that the state had made reasonable efforts to avoid foster care placement for an individual child. But, if a judge failed to document this finding correctly, a state could fail its review regardless of its actual services to that child and family.

Reviews were criticized for focusing on isolated components of a state's child welfare system, rather than the system as a whole. When problems were identified, penalties were imposed but little technical assistance was provided. The review system contained no mechanism for helping states to improve the quality of their programs. On the other hand, these reviews were also criticized for failing to identify problems in state child welfare programs. The fact that some states passed these

federal reviews, while at the same time they were being successfully sued in court, raised additional questions about the effectiveness of the federal review system.

Congressional Response

In 1989, Congress imposed the first in a series of moratoriums, prohibiting HHS from collecting penalties associated with these reviews. Finally, in 1994, Congress enacted two significant provisions as part of the Social Security Amendments of that year. First, Congress restructured Title IV-B, so that the foster child protections previously contained in Section 427 were no longer voluntary incentives, but rather mandatory components of the state Title IV-B plan. Second, Congress mandated the development of a new system to review state conformity with federal requirements, including state plan requirements, under Titles IV-B and IV-E.

The 1994 legislation directed HHS to develop a review system that would incorporate the concepts of technical assistance and corrective action. Specifically, HHS was directed to specify the federal requirements that would be subject to review and the criteria that would be used to determine if a state was substantially meeting those requirements. The law further directed HHS to specify a method for determining the amount of financial penalties that would be imposed in cases of substantial nonconformity. However, Congress also mandated that before such penalties could be imposed, states must be given an opportunity to implement a corrective action plan, and required that HHS provide the states with necessary technical assistance.

The 1994 legislation directed HHS to promulgate regulations, establishing this new review system, by July 1, 1995, to take effect on April 1, 1996. HHS has now proposed these regulations, in the *Federal Register* of September 18, 1998.

The Role of Advocacy Litigation

As I mentioned earlier, one of the concerns raised about the effectiveness of the old federal review system was the fact that some states were given a clean bill of health by HHS, while at the same time they were found in court to have violated federal or state child welfare laws. Since the early 1980s, lawsuits have been filed against states or localities in at least 24 states that I have been able to identify, based on a quick review of summaries prepared by two organizations that represented the plaintiffs in many of these cases. These organizations are Children's Rights, Inc., in New York (formerly a component of the American Civil Liberties Union) and the National Center for Youth Law in San Francisco.

Some of these cases, and their outcomes, have been narrow in focus. However, many of these cases have been class actions alleging a wide variety of violations of federal and state child welfare laws, as well as constitutional violations, and have sought comprehensive child welfare reform. It is important to note that many of the child welfare reforms that have been attributed to litigation were not always directly mandated by the courts or specified in settlement agreements or consent decrees. Rather, some of these reforms were initiated by governors, agency administrators, or state legislatures simultaneously with litigation, or after litigation focused attention on certain problems. In some cases, the litigation helped to produce the necessary data to document these problems.

The kinds of policy and practice changes that have resulted from child welfare litigation, either directly or indirectly, have affected the full range of child welfare services, including child protection, preventive and rehabilitative services for children and families, foster care, and adoption. In some cases, courts have been

very specific, such as in establishing caseload standards for social workers or establishing permanency planning timetables. In other cases, court orders or settlement agreements have outlined broader policy goals, such as improved service delivery to foster children or timely permanency planning, without specifying the actual steps to be taken by the state or locality.

In general, some of the outcomes that were frequently sought in child welfare lawsuits include: more timely and thorough child abuse and neglect investigations; caseload standards for social workers and supervisors engaged in protective and preventive services; creation of new administrative units and other initiatives to provide better and more targeted services to children and families; standards to ensure that certain services are provided to children in foster care, such as health screenings; improvement and automation of management information systems; visitation standards for foster children with biological families when reunification is the permanency goal; targeted efforts to reduce stays in foster care and to reduce backlogs of children awaiting adoption; and enhanced training for caseworkers and other employees.

Madame Chairman, that concludes my formal statement. I'd be happy to answer any questions that you or other Members of the Subcommittee may have. Thank you.



Child Welfare League of America, Inc.

440 First Street, NW, Third Floor, Washington, DC 20001-2085 • 202/638-2952 • FAX 202/638-4004

FOR THE RECORD

**TESTIMONY SUBMITTED
TO THE HOUSE WAYS & MEANS SUBCOMMITTEE ON HUMAN RESOURCES
FOR THE HEARING ON CHILD PROTECTION OVERSIGHT
BY THE CHILD WELFARE LEAGUE OF AMERICA
APRIL 22, 1999**

The Child Welfare League of America (CWLA) welcomes this opportunity to submit testimony on the implementation of a federal review system for child protection systems, and on the impact of the Adoption and Safe Families Act (ASFA) on the number of adoptions in the United States.

CWLA is a 79-year-old national association of over 1,000 public and private voluntary agencies that serve more than two million abused and neglected children and their families. CWLA member agencies provide the wide array of services necessary to protect and care for abused and neglected children, including child protective services, family preservation, family foster care, treatment foster care, residential group care, adolescent pregnancy prevention, child day care, emergency shelter care, independent living, youth development, and adoption.

Our brief comments that follow chiefly focus on the impact of ASFA on adoptions. They also suggest ways to improve adoption and other permanency outcomes. With respect to the proposed review system, CWLA strongly supports federal efforts to strengthen the quality of services and the capacity of agencies to deliver them. We applaud DHHS and its focus in the proposed rule on outcomes and program improvements. Our comments on the proposal are available on the CWLA web site at <http://www.cwla.org/cwla/publicpolicy/pl105-89.html>.

The Adoption and Safe Families Act, which originated in this Subcommittee, made clear our shared national goal of helping more children in foster care become part of permanent, loving families when they cannot safely return home. ASFA authorizes payments to states for increasing the numbers of children with special needs who become part of permanent, adoptive families. Early results indicate that many states have been successful in achieving that goal as adoptions of children with special needs have increased 22 percent according to the North American Council on Adoptable Children.

We are pleased and encouraged by the increases in adoptions. At the same time, we have concerns that we urge you to address to ensure that safety and permanency are achieved and maintained. ASFA demands faster permanency decision making, but few new resources—including the very limited adoption incentive funding and additional funding under Promoting Safe and Stable Families program—needed to build capacity among caseworkers and others in the child welfare agency, the courts, and the wider provider community to make good decisions in a timely fashion. We urge Congress to take the following actions to increase and improve stability and permanency for children:

Increase Resources for Post-Adoption Services

Adoptive families need support after, as well as before, an adoption is made final. Children who have been abused or neglected often have special needs and present special challenges for their adoptive families. Post-adoption services help parents meet the specific needs of their adopted children in order to maintain nurturing and permanent families. Post-adoption services often are key in preventing disruption and dissolution and should be available to all families that adopt a child with special needs from the child welfare system. Federal or state adoption subsidies do not pay for the parent training and education, counseling, respite care and residential treatment that these families need. New resources need to be dedicated to ensure that adoptive families have the support they need to care for these vulnerable children.

Make all Children with Special Needs Eligible for Federal Adoption Assistance

Under current law, children with special needs awaiting adoption are eligible for federal adoption subsidies under the Title IV-E Adoption Assistance Program, only if their biological family from whom they are being separated received SSI or welfare benefits (or would have been eligible to receive welfare benefits under the former AFDC program, given the income and resource standards in place in each state on June 16, 1996). Eliminating AFDC eligibility as a criterion for federal assistance would allow all children with special needs to be eligible for a federal adoption subsidy. This change would help more children with special needs be adopted, would replace a current cost and administrative burden, and would treat all children with special needs more equitably.

Support Court Improvements

In order to achieve the goals of ASFA, the already overburdened abuse and neglect courts also need help. CWLA supports legislation, such as the Strengthening Abuse and Neglect Courts Act (S. 708) recently introduced in the Senate to help courts deal with the accelerated timelines for the termination of parental rights and other requirements imposed by ASFA that increase the demands on abuse and neglect courts.

Help Older Children in Foster Care Transition to Independence

We are delighted by the interest expressed by members of this Subcommittee to extend support to young people in foster care who reach their eighteenth birthday and are facing life on their own without the support of a permanent family. The hearing held by this Subcommittee on March 9, highlighted the needs of these young people and documented how the federal government can help them become productive, self-sufficient adults. We thank the Subcommittee for its attention to the serious problems facing emancipating foster youths and urge action to meet critical health and shelter needs, as well as the skills needed to become self-sufficient adults.

We appreciate this opportunity to share our views and look forward to working with the Subcommittee on these issues during the coming months.

VOICE FOR ADOPTION

Speaking Out For Our Nation's Forgotten Children

BOARD OF DIRECTORS

**ADOPTION
EXCHANGE
ASSOCIATION**
Denver, Colorado

**CHILDREN
AWAITING
PARENTS**
Rochester, New York

**CHILD WELFARE LEAGUE
OF AMERICA**
Washington, DC

**INSTITUTE FOR BLACK
PARENTING**
Inglewood, California

NATIONAL ADOPTION CENTER
Philadelphia, Pennsylvania

**NORTH AMERICAN COUNCIL
ON ADOPTABLE CHILDREN**
St. Paul, Minnesota

SPAULDING FOR CHILDREN
Southfield, Michigan

THE ADOPTION EXCHANGE
Aurora, Colorado

**THE EVAN B. DONALDSON
ADOPTION INSTITUTE**
New York, New York

**THREE RIVERS
ADOPTION COUNCIL**
Pittsburgh, Pennsylvania

**FAMILY BUILDERS
ADOPTION NETWORK**

Testimony of

VOICE FOR ADOPTION

Before the

Subcommittee on Human Resources
Of the
Committee on Ways and Means

Regarding

Impact of the Adoption and Safe Families Act of 1997

April 22, 1999

Voice for Adoption
PO Box 77496
Washington, DC 20013

Designated Representative
Kathryn Way
(202) 628-1134 phone
(202) 628-1140 fax

VOICE FOR ADOPTION WRITTEN TESTIMONY
SUBMITTED TO
HOUSE SUBCOMMITTEE ON HUMAN RESOURCES
APRIL 22

Voice for Adoption is a coalition of over 50 state, local, and national adoption organizations that is committed every day to working on behalf of children who are waiting for adoptive families. Following are a few examples of children who have been adopted over the past year as a result of the increased emphasis on adoption of special needs children.

Daron, a handsome 15 year old African American youth, had been in 20 foster care placements in Nevada since birth. He had one failed adoption but he never gave up hope on having a family of his own.

A family from Salt Lake City got on the internet, found the FACES of adoption site and read about Daron. Several months later the Daron became their son. In Daron's words, "Knowing that you're not waking up the next morning and not having to move to a new family...to have a permanent home...is great."

Stephanie, a 12 year old Latino girl from Arizona wants to be an actress. She appeared on the Maury Povich show that was devoted to children waiting for adoptive families in January 1999. Stephanie said, "I'm jealous of my friends. They get to go home to a family and I just can't do that." A family from Alabama called about Stephanie after seeing her on the TV show. By March she was with her new adoptive family.

Michael, 9; Antoine, 7; James, 4; and Shawn, 3 are four spirited, active brothers. Their recent adoption assured that they will grow up together. The boys all entered foster care when Shawn was born with a positive toxicology screening for cocaine. Their birth mother has not been able to recover from her drug addiction. Antoine has some learning disabilities and needs special tutoring at school. Shawn evidenced tremors and other signs of drug exposure as an infant, but has since developed into a typical preschooler. The older boys are very healthy and doing well in school, but they worry about their birth mother and younger brothers. They were afraid that adoption might mean separation from their brothers, and were relieved when a family was found for all four of them. Their adoptive parents are adapting well to the permanent addition to their home of four little boys. They note that they would not have been able to commit to the care of all four brothers without the availability of Title IVE Adoption Assistance.

The children above represent many of the children that Congress sought to help with the implementation of the Adoption and Safe Families Act. Many children like Daron age out of foster care without ever having the opportunity to be part of an adoptive family. Daron's dream was realized because he was listed on the internet. Stephanie moved from Arizona to Alabama to realize her dream and the state of Arizona had the courage to include Stephanie on the Maury Povich show. Michael, Antoine, James and Shawn represent the thousands of children in foster care because of their parent (s)'s substance

abuse problems. Access to Title IV-E Adoption Assistance assisted with their placement with an adoptive family.

Children who leave the foster care system through adoption often have special needs and the families who step forward to adopt these children need to be prepared to address the special needs of these children. Resources are needed to develop and maintain a comprehensive system of adoption supports and post adoption services that recognizes and addresses the challenges these children present and the support that the families who adopt them will require. In addition, we need the legislative changes to provide the necessary structure. The waiting children need your continued support. This support is critical to assuring waiting children have the opportunity to be part of an adoptive family.

Voice for Adoption(VFA) is pleased to have the opportunity to submit testimony to the Committee on Ways and Means, Subcommittee on Human Resources discussing the increase in the number of special needs adoption. VFA has been a consistent partner in development of strategies to move the thousands of children who have been trapped in the foster care system to safe, stable, permanent adoptive homes. Early results indicate marked improvement in state efforts to recruit adoptive families with permanent safe homes. We believe that these results are directly tied to Congressional efforts to focus on permanency and safety for children in the foster care system. Passage of the Adoption and Safe Families Act with the inclusion of Adoption Incentive Payments has sent a clear message to the states that children must not be allowed to languish in foster care.

National attention on the need for states to move children who can not return home to permanent adoptive placements has focused state work on finding adoptive families for children in the foster care system. Adoption 2002, the Adoption and Safe Families Act, and Congressional hearings send a clear message that there is strong interest in children moving to adoptive families when they can not return home. States' performance has exceeded the expectations of the Congress and many advocacy groups. Voice for Adoption calls on Congress to continue to support efforts to move foster children who can not return home to adoptive families. Full funding for the Adoption Incentive Program will continue to send the message to states that Congress recognizes and supports the work done in the first year. VFA estimates that the additional cost will be close to \$25million dollars.

Voice for Adoption feels strongly that the incentive dollars to states must continue to support additional adoption related work. As states fully implement the Adoption and Safe Families Act, the number of children who will require adoption services will increase. While many of these children will be adopted by their foster parents, others will require recruitment of adoptive families. Adoption professionals and State officials agree that as time goes on the children requiring adoptive placement will be more challenging and require more time and energy to place in adoptive families.

Voice for Adoption has developed a Public Policy Agenda that addresses the various components that must be in place to achieve our goal of adoption for children who cannot return home.

VFA supports the following funding and legislative initiatives.

FUNDING ISSUES

- **Increased funding for adoption incentive payments.** We believe that the strong performance by the states in the first year should be matched with full funding for the adoption incentive program. VFA asks Congress to increase the authorization and appropriation levels to assure full funding. We estimate the need for an additional \$25million to bring total funding to \$45 million. Congress recognized the need to direct the incentive payments back to the states to support additional adoption related activities. VFA supports continuation of that requirement.
- **Full funding for the Adoption Opportunities Act.** Voice for Adoption calls on Congress to re-establish an authorization level and fully fund the Adoption Opportunities Act at \$50 million.
This level of funding is needed as the numbers of children double or even triple in the next few years.
Model programs must be developed and supported which
 1. Recruit and prepare adoptive families
 2. Match waiting children with approved families on the state, regional and national levels
 3. Apply the latest technology such as the internet and video conferencing to the adoption process in order to streamline the process
 4. Office training and technical assistance to states on all aspects of adoption
 5. Measure the cost effectiveness of adoption services.

Public and private agencies, adoption exchanges and adoptive parent organizations must be eligible for these funds as they all play key roles in permanency for children.

- **Support development and funding of a national purchase of service system.**
There is broad recognition that as the easiest to place children move to adoptive families, the recruitment of adoptive families for the remaining children will be more challenging. The inclusion of interjurisdictional placement language in AFSA challenges states to look throughout the country to find families for children in need of adoptive homes. One barrier to full implementation of this provision is the lack of funding to support adoptive family preparation and post adoption services in locations outside of the “home” jurisdiction and fully utilize the resources of the private sector. It

is unlikely that this provision of AFSA will reach full implementation until the funding issues are addressed through a national purchase of service system.

- **Support for funding for increased court and legal costs associated with the increased number of special needs adoptions.** VFA congratulates Senators DeWine, Rockefeller, Landrieu, Chaffee and others for their recently introduced legislation and calls on the House of Representatives to support this issue.
- **Support increased funding for post adoption services either through existing funding streams or through creation of new funding.** All the good work that has been done, and will be done, to secure safe permanent adoptive families for children will be for naught if we do not support the families who have adopted these special needs children. Children who have been abused, neglected or abandoned present special challenges for their adoptive families. If the families and children are not supported these adoptions may not last and the children will wind up back in the state child welfare systems.

LEGISLATIVE INITIATIVES

- **Support equal access to Title IVE Adoption Assistance for all foster care children who need a permanent loving home.** Voice for Adoption calls on Congress to “level the field” for all children who would benefit from a safe permanent adoptive family. The financial background of a child’s birth family should have nothing to do with whether or not their adoptive family has access to adoption assistance. Title IVE Adoption Assistance must be extended to all special needs children.

Assure legislation related to the implementation of the Hague Convention on Intercounty Adoption is consistent with current adoption requirements under AFSA with regard to geographic boundaries. Legislation has been introduced in the Senate related to the Hague Convention. VFA will be following that legislation carefully to assure that the process created for intercounty adoptions is not in conflict with adoption requirements set forth in the Adoption and Safe Families Act.

What has happened to create the increased number of adoptions throughout the country?

The increase is a result of national attention focused on foster children who have grown up in foster homes that were created as temporary solutions for children who had been abused or neglected. Too often foster children who can not safely return to their homes “age out” of foster care never having been a member of a loving family. Congressional interest and attention has focused state and local officials on the need to do more for foster children.

The first year has been a success, but the work has only begun. Congressional support is needed to establish and fund a comprehensive system of adoption supports and post adoption services. That system should include, but not be limited to,

1. Assurance that staffing in the state and local offices is in place to focus on securing permanency through adoption for waiting children,
2. Strengthening recruitment of adoptive families,
3. Providing thorough preparation of adoptive families,
4. Allowing all adoptive families of special needs children access to Title IVE Adoption Assistance
5. And continuing to provide support for the adoptive families post adoption.

Voice for Adoption thanks the committee for the opportunity to submit testimony and looks forward to continuing to work with Congress on these important issues.